







Refunds & Credits - 1930

REFUNDS AND CREDITS OF INTERNAL REVENUE TAXES 1930

REPORT OF THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION Pursuant to Section 710 of the Revenue Act of 1928 AND REPORT OF THE STAFF OF THE JOINT COMMITTEE TO THE COMMITTEE



JANUARY 12, 1932.—Referred to the Committee on Ways and Means and
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LETTER OF TRANSMITTAL

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, January 12, 1932.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

SIR: Pursuant to section 710 of the revenue act of 1928, I have the honor to submit a report by the Joint Committee on Internal Revenue Taxation, dated January 12, 1932, covering refunds and credits of internal revenue taxes for the calendar year 1930.

Very respectfully,

WILLIS C. HAWLEY, *Chairman.*

REPORT OF THE JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

(Pursuant to the revenue act of 1928)

WASHINGTON, D. C., *January 12, 1932.*

Section 710 of the revenue act of 1928 requires that all refunds and credits in excess of \$75,000 shall be reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue. This section also requires an annual report to Congress of such refunds and credits, including the names of all persons to whom amounts are credited or payments made, together with the amounts credited or paid to each.

Pursuant to the above provision of law, the joint committee has caused its staff to examine all such refunds and credits made by the commissioner during the calendar year 1930 and to submit a report thereon to the committee. This is the third report made under the revenue act of 1928. The first report was submitted on June 8, 1929, and covered the period June 1 to December 31, 1928. The second report was made on June 20, 1930, and embraced the calendar year 1929.

A complete copy of the report for the calendar year 1930 is attached hereto. Part I of this report contains a list of the names of all persons to whom refunds or credits have been made and shows the amounts paid or credited to each. The committee approves of this list, which agrees with the records of the Treasury Department.

While it is not required by law, the committee deems it advisable to also submit to the Congress Part II and Part III of the staff report. These parts cover an analysis and general survey of over-assessments, including a discussion of certain specific cases. The committee does not specifically approve or disapprove of Part II and Part III of the report. The Treasury Department has prepared an analysis of the overassessments reported to the joint committee and this has been included as a supplement to Part II.

Respectfully,

WILLIS C. HAWLEY, *Chairman.*

LETTER OF SUBMITTAL

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, March 3, 1931.

Hon. WILLIS C. HAWLEY,
Chairman Joint Committee on Internal Revenue Taxation,
Washington, D. C.

MY DEAR CHAIRMAN: There is submitted herewith a report on refunds and credits of internal-revenue taxes in excess of \$75,000, as required by section 710 of the revenue act of 1928.

The report covers the calendar year 1930 and may be summarized as follows:

1. The total overassessments, including interest, in excess of the \$75,000 limit, for the calendar year 1930 amount to \$97,503,653.36. This amount is somewhat larger than the amount for the previous year on account of an exceptionally large refund to the United States Steel Corporation and a large abatement to the Payne Whitney estate. If these two cases are eliminated, the trend of overassessments appears to be downward.

2. Taken as a whole, the final determinations of the commissioner in these cases have been carefully and accurately made, and are not open to serious criticism. In disposing of a few of the old cases which have been pending for years, some differences of opinion have inevitably arisen, but the department has cooperated in every way by making a review of all the issues raised.

Respectfully submitted.

L. H. PARKER, *Chief of Staff.*

REPORT ON REFUNDS AND CREDITS OF INTERNAL REVENUE TAXES, 1930

FOREWORD

Refunds and credits of internal revenue taxes in excess of \$75,000 have been reported to the Joint Committee on Internal Revenue Taxation by the commissioner since February 28, 1927, with the exception of the period from April 25, 1928, to May 29, 1928. These reports were first required under the first deficiency act, 1927. (H. R. 16462, Feb. 28, 1927, c. 226, 44 Stat. 1254.) This act contained the following provision:

Refunding taxes illegally collected: For refunding taxes illegally collected under the provisions of sections 3220 and 3689, Revised Statutes, as amended by the revenue acts of 1918, 1921, 1924, and 1926, including the payment of claims for the fiscal year 1928 and prior years, \$175,000,000, to remain available until June 30, 1928: *Provided*, That no part of this appropriation shall be available for paying any claim allowed in excess of \$75,000 until after the expiration of sixty days from the date upon which a report giving the name of the person to whom the refund is to be made, the amount of the refund, and a summary of the facts and the decision of the Commissioner of Internal Revenue is submitted to the Joint Committee on Internal Revenue Taxation.

No reports were required in the first deficiency act, 1928 (Dec. 22, 1927, c. 5, 45 Stat. 30), or in the Treasury appropriation act of March 5, 1928 (c. 126, 45 Stat. 162). But the revenue act of 1928, in section 710, specifically required the commissioner to make such reports to the joint committee. Section 710 of the revenue act of 1928 reads as follows:

SEC. 710. *Refunds and credits to be referred to joint committee.*—No refund or credit of any income, war-profits, estate, or gift tax, in excess of \$75,000, shall be made after the enactment of this act, until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts and the decision of the Commissioner of Internal Revenue is submitted to the Joint Committee on Internal Revenue Taxation. A report to Congress shall be made annually by such committee of such refunds and credits, including the names of all persons and corporations, to whom amounts are credited or payments are made, together with the amounts credited or paid to each.

As the revenue act of 1928 was not enacted until May 29, 1928, and as the appropriation under the first deficiency act, 1927, became exhausted on April 25, 1928, the commissioner did not report to the joint committee any credits or refunds made during the period April 25, 1928, to May 29, 1928. The first report submitted to Congress (H. Doc. 43, 71st Cong., 1st sess.) under the revenue act of 1928 covered the 7-month period from May 29, 1928, to December 31, 1928. However, there was included in this report an analysis of the refunds made during the 14-month period February 28, 1927, to April 24, 1928, and reported to the committee pursuant to the first deficiency act, 1927. The second report on refunds and credits was made by

the joint committee to Congress on June 20, 1930. This report (H. Doc. 478, 71st Cong., 2d sess.) covered all refunds and credits in excess of \$75,000 reported to the joint committee by the commissioner during the calendar year 1929. The report now submitted constitutes the third report and embraces the refunds and credits in excess of \$75,000 reported by the commissioner to the committee during the calendar year 1930.

There has been no change in the policy of the committee as to its functions with respect to its examination of refunds and credits since the publication of the first report. In the first report the intent of Congress in requiring such examination was analyzed as follows:

First. It appeared to be the purpose that the joint committee should inform the Congress not only as to the amounts of the refunds and credits over \$75,000, but also as to the principal causes of such repayments.

Second. It appeared to be the purpose that the joint committee and its staff should study these cases in order to inform themselves as to the practical operation and effect of our internal revenue system of taxation.

Third. It appeared to be the purpose that the joint committee, or its authorized agents, should call to the attention of the Bureau of Internal Revenue any final tax determinations resulting in refunds or credits which might seem erroneous, or doubtful, or worthy of further investigation and review.

The above-named purposes have been carefully kept in mind during the entire period during which refunds and credits have been submitted to the committee. It has been recognized, however, that the committee has no actual power of approval or disapproval of these refund cases.

SUMMARY

This report is divided into three parts:

Part I consists of a list of refunds and credits in excess of \$75,000 allowed in the calendar year 1930, which list is required to be reported to the Congress under section 710 of the revenue act of 1928.

Part II contains an analysis of overassessments. This analysis shows the total amounts of the overassessments and the principal causes for their allowance. There is also contained in Part II a brief résumé of each case, alphabetically arranged. An analysis of these overassessments has also been prepared by the Treasury Department and is included as a supplement to Part II.

Part III consists of a general survey of the overassessment situation, including a discussion of certain specific cases.

The most important facts and conclusions presented in the report are summarized as follows:

1. The total overassessments, including interest, allowed during the calendar year 1930 in cases involving refunds and credits over \$75,000 amounted to \$97,503,653.36. The rate of overassessment was, therefore, \$8,125,304 per month. This rate was 29 per cent greater than the rate shown in the report for the calendar year 1929 but is 24 per cent less than the rate shown in the report for the 21-month period from February, 1927, to December, 1928. The increase in the rate of overassessments for 1930 is more apparent than real. In 1930, an estate tax assessed against the Payne Whitney

estate was abated in an amount in excess of \$16,000,000. This abatement was granted pursuant to the 80 per cent credit allowed under the Federal estate tax for estate and inheritance taxes paid to the States, which taxes could not be ascertained at the time the Federal estate tax return was made. The part of the tax abated was never paid and was known not to have been due when it was assessed.

2. The true picture of the situation in 1930 may be shown by comparing the monthly rates at which credits and refunds have been made in that year with previous years. Credits and refunds directly affect the revenue whereas abatements represent merely the elimination of an incorrect charge on the books of the Government. For the period from February, 1927, to December, 1928, the average monthly rate at which taxes were refunded and credited amounted to \$6,945,717. For the calendar year 1929 this rate was \$4,514,387, and for the calendar year 1930 the rate was \$4,571,011. Thus, the rate for the calendar year 1929 decreased 35 per cent over the preceding period, while the rate for 1930 increased about 1 per cent over that for 1929. A conclusion that refunds and credits for 1930 indicated no downward trend is unwarranted due to the fact that in 1930 a refund and credit in the amount of \$21,098,382 was granted to the United States Steel Corporation. This refund and credit represented nearly 40 per cent of all refunds and credits allowed for the calendar year 1930.

3. Cash refunds reported in excess of \$75,000 amounted to only \$27,174,872 in 1930, in comparison with cash refunds of \$38,203,522 in 1929. This shows a decrease in rate of about 29 per cent.

4. The principal causes of the 1930 overassessments are as follows:

	Per cent
Estate tax.....	24
Invested capital.....	15
Amortization.....	14
Depreciation.....	7

Of these causes, the first three are disproportionately large on account of the abnormal allowances to the Payne Whitney estate and the United States Steel Corporation already mentioned. In the future it is probable that depreciation will constitute the most frequent basis for refunds. The taxes for the excess-profits tax years 1917-1921, inclusive, are rapidly being settled. This is shown by the following comparative table:

Per cent of total overassessment for the excess profits tax years

14-month period, Feb. 28, 1927-Apr. 24, 1928.....	88
7-month period, May 29, 1928-Dec. 31, 1928.....	77
12-month period, Jan. 1, 1929-Dec. 31, 1929.....	71
12-month period, Jan. 1, 1930-Dec. 31, 1930.....	59

5. In the majority of cases the refunds and credits reported by the commissioner have not been open to serious criticism. Differences of opinion have, however, arisen in disposing of some of the excess-profits tax cases which have long been pending. In such cases, the points in controversy have been discussed and reviewed with the department. During the calendar year 1930, 125 cases were reported to the committee. Serious controversy arose in only nine of these

cases. The cooperation of the department is shown by the following facts with respect to the disposition of these nine cases:

Two cases were changed to conform with the views of the staff of the committee.

Two cases were withheld pending further review.

Two cases were not changed as to the years in question but the basis for future years was corrected.

Three cases were not changed in any respect.

The net result of the changes is a saving of approximately \$400,000 in favor of the Government. This saving is less than one-half of 1 per cent of the total overassessments allowed, but is sufficient to justify the expense of the committee examination, which amounts to only 5 per cent of the savings effected.

PART I

LIST OF CREDITS AND REFUNDS
OF OVER \$75,000 EACH
FOR THE
CALENDAR YEAR 1930

(As required by Section 710, Revenue Act of 1928)



List of credits and refunds of over \$75,000 each for the calendar year 1930

Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue under the provisions of section 710 of the revenue act of 1928

Name of taxpayer	Address	Years involved	Abatements	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Per cent tax reduction
<i>January, 1930</i>											
Allied Chemical & Dye Corporation.	New York, N. Y.	1923, 1924		\$85,231.45		\$4,723,472.43	\$85,231.45		\$4,638,240.98	\$24,030.51	1.80
Bryant Paper Co.	Kalamazoo, Mich.	1922-1927		83,092.08		558,998.04	83,092.08	\$2,828.95	473,077.01		15.37
Central Leather Co. and subsidiaries.	New York.	1917			\$104,207.73	4,756,286.60	194,207.73	17,576.51	4,544,502.36	56,313.75	4.45
Dodge, John F., estate of.	Detroit, Mich.	1920			466,900.15	8,253,016.27	466,900.15	335,262.31	7,450,853.81	226,734.01	5.66
Harkness, Anna M., estate of.	New York.	1923			190,948.24	12,192,056.14	190,948.24		12,001,107.90	21,789.02	1.56
Kansas Gas & Electric Co. and subsidiaries.	Wichita, Kans.	1924, 1926		84,486.90		164,158.06	84,486.90		79,671.16	18,798.48	51.47
Philadelphia Co. and subsidiaries.	Pittsburgh, Pa.	1917-1923	\$271,181.00		2,291,617.20	3,227,167.95	2,562,798.20	1,811.12	662,558.63	1,117,174.01	79.47
Pittsburgh & West Virginia Ry. Co.	do.	(1921, 1922), (1924, 1925)		52,897.37	107,614.15	834,970.69	160,511.52		674,459.17	35,314.30	19.22
Public Service Corporation of New Jersey and subsidiaries. ¹	Newark, N. J.	1918-1922	1,434,885.54	37,770.39	811,023.41	5,196,194.46	2,283,679.34		2,912,515.12	401,912.14	43.95
United Publishers Corporation. ²	New York, N. Y.	1921			92,115.56	283,260.00	92,115.56		191,144.44	43,612.20	32.52
Total.			1,706,066.54	343,478.19	4,154,426.44	40,189,580.66	6,203,971.17	357,478.89	33,028,130.60	1,946,278.42	
<i>February, 1930</i>											
Advance Rumely Co.	La Porte, Ind.	1918, 1919			119,804.88	783,177.96	119,804.88	50,078.92	613,294.16	31,854.69	21.69
Archer Daniels Linseed Co.	Minneapolis, Minn.	1918, 1919	615,872.24		188,984.57	1,279,165.59	804,856.81	3,470.35	470,838.43	110,072.87	63.19
Berkshire Cotton Manufacturing Co. ³	Adams, Mass.	1922			86,378.00	118,748.94	86,378.00		29,531.55	34,725.70	72.74
Brown, Paul, estate of.	St. Louis, Mo.	1927	546,482.49		786,926.35	1,739,665.44	1,333,408.84		406,256.60	47,344.94	76.65
Champion Spark Plug Co.	Toledo, Ohio.	1918, 1919	92,705.88	129,453.81		2,446,224.22	222,159.69	2,406.43	2,221,658.10	9.18	
Cincinnati Milling Machine Co.	Cincinnati, Ohio.	1918			86,570.25	1,964,795.07	86,570.25		1,878,224.82	42,419.42	4.41

¹ Includes notice of refund of \$170.40.² Notice of refund.³ Barred by statute, \$2,839.39.

Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue under the provisions of section 710 of the revenue act of 1928—Continued

Name of taxpayer	Address	Years involved	Abatements	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Percent tax reduction
<i>February 1930—Continued</i>											
Farrel Foundry & Machine Co.	Ansonia, Conn.	1918			\$84,612.92	\$671,332.75	\$84,612.92		\$586,719.83	\$51,880.59	12.60
Grosvenor-Dale Co. ⁴	Providence, R. I.	1920			120,517.73	272,707.42	120,517.73	\$98,281.04	53,908.65	35,806.53	80.23
Hudson Motor Car Co.	Detroit, Mich.	1919, 1921		\$76,183.59		1,325,243.94	76,183.59		1,249,060.35	31,430.66	3.75
McLaren, Peter, estate of	Perth, Ontario, Canada.	1919			113,945.31	283,932.11	113,945.31	134,331.86	35,654.94		87.44
Pacific Coast Biscuit Co. ⁵	Seattle, Wash.	1917, 1918			88,513.21	513,007.55	88,513.21		424,494.34	6,484.87	17.25
Thompson, Mary Clark, estate of.	New York	1923			169,770.74	1,742,116.32	169,770.74		1,572,345.58	42,012.44	9.75
Union Twist Drill Co. ⁶	Athol, Mass.	(1918, 1919 1920, 1925)			199,762.65	1,977,498.92	199,762.65	116,595.83	1,661,140.44	104,514.82	16.00
United Fruit Co.	Boston, Mass.	1920			92,443.66	10,214,464.64	92,443.66		10,122,020.98	27,620.38	.91
United Fuel Gas Co. ^{7, 8}	Charleston, W. Va.	1918-1920			809,232.45	3,222,027.93	809,232.45		2,295,683.62	207,497.58	25.12
United States Steel Corporation and subsidiaries. ⁹	New York, N. Y.	1918-1920		17,006,000.00	4,092,382.14	3,991,700.31	21,098,382.14	10,006,614.41	312,286,703.76	11,112,960.90	9.06
Willis-Overland Co. and subsidiaries.	Toledo, Ohio.	1927			677,567.43	677,567.43	677,567.43			66,099.43	100.00
F. W. Woolworth Co. ¹⁰	New York, N. Y.	1917-1921	\$158,265.62	1,024,262.49	492,887.39	15,079,484.17	1,182,528.11		13,861,033.64		7.84
Do. 11.	do.	1922-1926	319,338.51	573,347.96		15,130,483.77	1,355,573.86	22,177.71	13,714,732.18	145,074.55	9.30
Total.			1,732,664.74	18,809,247.85	8,210,319.68	402,833,344.48	28,752,292.27	10,433,956.55	363,483,301.97	12,117,802.40	
<i>March, 1930</i>											
California & Hawaiian Sugar Refining Corporation.	San Francisco, Calif.	1927			166,324.68	170,441.88	166,324.68	4,117.20		19,436.53	100.00
Clifton Manufacturing Co. ^{12, 13}	Clifton, S. C.	1918, 1919			87,972.22	834,512.03	87,972.22	25,968.35	678,208.44	18,366.90	13.65
Eastman Kodak Co. of New Jersey. ¹⁴	Rochester, N. Y.	1920-1923			2,542,501.13	11,936,150.97	2,542,501.13		9,393,658.84	873,717.43	21.30
Harrisburg Pipe & Pipe Bending Co.	Harrisburg, Pa.	(1917, 1918, 1920)		135,711.16	247,628.27	7,706,318.70	383,339.43	610,409.18	6,712,570.09	151,791.32	12.90
Philadelphia Rapid Transit Co.	Philadelphia, Pa.	1919-1921		1,560,910.02	160,224.38	1,939,303.75	1,721,134.40		218,169.35	430,229.32	88.75
Reading Co. ¹⁵	do.	1918, 1919		102,726.62	356,378.34	3,707,619.84	102,726.62		3,021,703.38	3,493.30	2.77
Rockefeller, John D.	New York, N. Y.	1917		66,968.73	84,218.67	14,543,689.67	356,378.34	36,510.40	14,150,780.93	92,027.81	2.70
United States Industrial Alcohol Co.	do.	1924-1926				1,062,260.48	151,187.40	118,993.24	792,079.84	27,556.78	25.43
Total.				1,866,316.53	3,645,247.69	41,900,286.32	5,511,564.22	795,998.37	34,967,170.87	1,617,119.39	

Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue under the provisions of section 710 of the revenue act of 1928—Continued

Name of taxpayer	Address	Years involved	Abatements	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Percent tax reduction
<i>May, 1930—Continued</i>											
Illinois Traction Co.	Champaign, Ill.	1920-1922		\$188,830.18	\$12,404.02	\$324,273.27	\$901,234.90		\$323,038.47	\$87,954.48	38.38
G. R. Kinney Co. (Inc.)	New York, N. Y.	1917-1919	\$34,914.32	57,200.46		276,357.85	92,114.78		184,273.07		33.33
John Morrell & Co.	Ottumwa, Iowa	1920, 1921	125,000.00	77,805.48		325,412.00	202,805.48		122,606.52	6,043.80	62.32
Oceanic Steam Navigation Co. (Ltd.)	New York, N. Y.	1919, 1921			158,484.67	530,083.08	138,484.07	\$145,616.66	245,981.75	88,889.75	55.28
Public Service Corporation of New Jersey.	Newark, N. J.	1925, 1926			141,177.35	3,726,865.52	141,177.35		3,585,688.17	25,706.14	3.79
Rea, Edith Oliver (Mrs.)	Pittsburgh, Pa.	1920-1923			75,730.58	1,197,406.57	75,730.58		1,121,675.99	14,858.61	6.32
Total			159,914.32	2,086,699.62	387,797.22	19,922,612.66	2,634,411.16	145,616.66	17,142,384.84	301,429.99	
<i>June, 1930</i>											
Bayly, J. W. E., estate of	Louisville, Ky.	1924, 1925			77,178.08	77,178.08	77,178.08			11,228.88	100.00
Brown-Lipe Gear Co.	Syracuse, N. Y.	1917-1920, 1923, 1925, 1926		35,102.25	139,346.11	1,202,130.84	306,862.44		895,268.40	71,564.36	25.53
Cement Securities Co. ²²	Denver, Colo.	1917, 1920, 1921		150,018.51	117,430.20	1,402,747.12	267,448.71		1,098,743.36	56,101.57	19.07
Chile Copper Co.	New York	1918		24,641.93	94,892.91	510,109.61	119,534.84		390,634.77	61,577.34	23.43
Continental Can Co. (Inc.) ²³	do.	1920-1922		58,048.57	104,049.67	2,043,893.11	162,098.24		1,875,859.46	56,544.07	7.93
Corporate Investment Co.	Chicago, Ill.	1926, 1927		101,522.65		161,789.02	101,522.65		60,266.37	4,358.06	62.75
Great Lakes Coal Mining Co. (New Pittsburgh Coal Co., successor) ²⁴	Columbus, Ohio	1928, 1918			77,675.13	421,122.65	77,675.13	74,440.46	269,007.06	38,328.90	36.12
Holland-American Line	New York	1916, 1917, 1919	92,947.27	235,159.70	64,522.86	1,167,705.26	392,629.83		775,075.43	42,075.58	33.62
Honolulu Consolidated Oil Co. ²⁵	San Francisco, Calif.	1913, 1916- 1920, 1922- 1924	495,043.83	56,808.90	318,812.23	1,635,172.78	871,264.96		763,757.45	152,079.55	53.29
Humble Oil & Refining Co.	Houston, Tex.	1924		247,123.39		957,242.99	247,123.39		710,119.60	67,321.55	23.82
International Navigation Co. (Ltd.)	New York	1919		4,152.95	76,817.11	124,493.87	80,970.06		43,523.81	45,338.22	65.03
Middle West Utilities Co. ²⁶	Chicago, Ill.	1920, 1921		266,008.05		324,399.90	266,008.05		58,391.85	131,243.93	82.00
Singer Manufacturing Co. and subsidiaries.	Elizabeth, N. J.	1925		194,022.55		3,668,011.23	194,022.55		3,473,988.38	44,625.26	5.29
Street & Smith (Inc.)	New York, N. Y.	1918, 1922- 1924		96,885.27		1,076,675.07	96,885.27	62,713.29	917,076.51		14.82
Theta Oil Co.	Chicago, Ill.	1918			201,096.86	808,823.47	201,096.86	432,959.73	174,766.58	68,286.63	78.39

Vanderbilt, William K., es- tate of.	New York, N. Y.	1920	1,054.61	242,596.70	686,328.33	243,651.31	442,677.02	128,401.31	35.50
Willis-Overland Co. and sub- sidiaries. ²⁷	Toledo, Ohio	1928		225,000.00	225,000.00	225,000.00		17,540.75	100.00
Total			721,005.18	2,199,448.76	16,492,883.33	3,930,972.67	570,113.48	984,615.96	
<i>July, 1930</i>									
Det. Forende Dampskibs Selskab.	Copenhagen, Denmark.	1918	130,387.00	17,835.17	763,495.00	620,833.76			81.31
Java-China-Japan Lijn	San Francisco, Calif.	1917-1919	33,507.06	266,917.83	668,744.23	316,530.45	99,811.31	166,190.67	62.16
United Verde Copper Co. ²⁸	New York	1918		3,793.88	3,123,130.98	608,745.63		391,870.87	19.49
Total			163,894.06	37,734.61	4,555,370.21	1,546,109.84	99,811.31	842,172.32	
<i>August, 1930</i>									
James B. Clark Theatres (Inc.), et al.	Pittsburgh, Pa.	1926		65,081.58	211,010.27	125,951.07			59.69
Crescent News & Hotel Co.	Nashville, Tenn.	1918-1920		161,741.95	237,703.23	161,741.95	43,577.59	32,333.69	86.38
Erie Railroad Co. ²⁹	New York, N. Y.	1918-1919		86,434.24	1,242,943.66	86,434.24	46,767.62	26,931.89	10.72
New York Life Insurance Co. ³⁰	do.	1923			1,696,201.88			638,481.25	
Standard Sanitary Manufac- turing Co.	Pittsburgh, Pa.	1922, 1924, 1925		137,712.08	3,634,095.76	137,712.08		3,496,383.68	37.89
Torrington Co. of Connecticut.	Torrington, Conn.	1920		96,820.43	1,028,493.03	96,820.43		909,606.24	9.41
Union Cotton Manufacturing Co.	Fall River, Mass.	1920, 1922	44,738.21	173,729.74	494,019.09	227,535.98	22,066.86	196,483.11	53.66
United Drug Co. and subsid- aries. ³¹	Boston, Mass.	1922							
Utah-Idaho Sugar Co.	Salt Lake City, Utah.	1917-1920		161,100.72	2,224,303.38	161,100.72	262,429.49	94,816.47	19.04
Vaccaro Bros. & Co.	New Orleans, La.	1917, 1919		82,628.46	2,854,481.91	499,222.74	1,534.12	2,423,725.05	15.09
Total			44,738.21	321,437.78	13,553,252.21	1,426,519.21	376,375.18	600,853.81	

²⁷ Barred by statute, \$36,555.05.

²⁸ Barred by statute, \$5,935.41.

²⁹ Includes compensating adjustments of \$10,624.22 (T. D. 4235).

³⁰ Barred by statute, \$150.37.

³¹ Includes excess interest collection of \$72.01.

³² Notice of refund to correct erroneous assessment.

³³ Includes excess interest collection of \$460.02.

³⁴ Barred by statute, \$75,348.21; paid by Director General of Railroads, \$22,532.37.

³⁵ Entire overassessment of \$1,057,720.63 withheld in connection with a proposed deficiency for 1920.

³⁶ Stipulation case; unadjusted.

Refunds and credits reported to the Joint Committee on Internal Revenue Taxation by the Commissioner of Internal Revenue under the provisions of section 710 of the revenue act of 1928—Continued

Name of taxpayer	Address	Years involved	Abatements	Credits	Refunds	Original and additional assessments	Net over-assessments allowed	Previously allowed	Final tax collected	Interest	Percent tax reduction
<i>September, 1930</i>											
Advance Rumely Co.	La Porte, Ind.	{ 1916, 1917, 1920			\$78,865.98	\$234,015.28	\$78,865.98	\$870.67	\$154,278.63	\$83,710.93	34.07
Delaware, Lackawanna & Western Railroad Co. ³²	New York, N. Y.	{ 1916-1919, 1921-1922, 1924-1926		\$211,052.65		16,294,084.21	211,052.65		13,516,012.41	47,132.92	14.72
Eastern Steamship Lines (Inc.). ³³	Boston, Mass.	1924-1927		14,504.10	64,915.03	371,077.91	79,422.13		291,635.78	12,314.60	21.40
Goedert, Mary R., estate of ³⁴	New York, N. Y.	1929			186,752.30	726,450.44	186,752.30		539,698.14		25.71
Madera Hill & Co.	Philadelphia, Pa.	1918		29,931.14	83,496.99	473,440.46	180,387.17		294,453.99	56,047.17	38.07
Manville, Thomas Franklin, estate of.	New York, N. Y.	1925	865,539.04		118,941.93	3,047,466.74	118,941.93	194,591.90	2,733,873.15	23,337.80	10.29
C. Pardee Works ³⁵	Philadelphia, Pa.	1917-1920		120,693.85	10,443.90	332,881.86	131,137.75		261,741.11	29,310.23	33.38
Stout, Frank D., estate of.	Chicago, Ill.	1925		376,181.74	545,418.89	21,541,336.90	987,159.67	195,462.57	17,791,725.51	201,853.65	
Total.			65,559.04								
<i>October, 1930</i>											
Aluminum Co. of America ³⁶	Pittsburgh, Pa.	1918				3,315,731.50		808,614.42	2,260,199.23	44,690.73	33.17
Churngold Corporation	Cincinnati, Ohio.	1920		82,382.93		248,363.13	82,382.93		165,980.20	27,417.05	33.56
First National Bank ³⁷	Birmingham, Ala.	1918-1924			101,346.80	740,419.01	101,346.80		454,804.04		
Oliver Iron & Steel Co. and subsidiaries ³⁸	Pittsburgh, Pa.	1917-1920	214,073.83	187,173.01	30,284.34	3,510,559.49	431,531.18	39,419.63	3,018,769.05	94,945.26	13.42
Prairie Oil & Gas Co.	Independence, Kans.	1925			163,975.68	1,763,458.13	163,975.68		1,599,482.45	38,642.10	9.30
J. Samuels & Bro. (Inc.), and subsidiaries ³⁹	Providence, R. I.	{ 1917, 1918, 1920, 1921	29,426.40	123,534.08		\$73,894.92	152,060.48	8,000.00	699,556.81	16,069.60	18.42
Western Maryland Ry. Co. ⁴⁰	Baltimore, Md.	1924, 1925		50,727.81		341,960.79	50,727.81		225,011.39	11,881.90	14.83
Total.			243,500.23	443,817.83	295,606.82	10,794,386.97	982,924.88	1,040,212.22	8,423,833.17	233,646.64	
<i>November, 1930</i>											
Boston & Maine R. R. ⁴¹	Boston, Mass.	1919		84,381.67	122,487.36	337,082.70	206,869.03	14,479.86	48,363.82	127,172.30	65.66
Broadway Department Store ⁴²	Los Angeles, Calif.	1920									
California & Hawaiian Sugar Refining Corporation ⁴³	San Francisco, Calif.	1928			156,766.62	156,766.62	156,766.62			13,194.38	100.00
Clark Thread Co. ⁴⁴	Newark, N. J.	1919, 1920									
Illinois Central Railroad Co. ⁴⁵	Chicago, Ill.	{ 1918, 1920- 1922		388,293.68	488,427.67	7,571,678.44	876,721.35		6,346,734.50	395,971.35	11.58
Lehigh Portland Cement Co.	Allentown, Pa.	1921-1923		6,085.95	77,899.03	1,454,639.70	83,984.98		1,370,654.72	36,342.40	5.77

Metropolitan Life Insurance Co. ⁴	New York, N. Y.	1923	631, 135.22	1, 803, 393.40	631, 135.22	1, 115, 691.45	228, 711.47	34.99
Rosenbloom, Sol, estate of.	Pittsburgh, Pa.	{ 1917, 1920-1922	331, 495.64	4, 411, 961.12	331, 495.64	4, 076, 463.15	---	7.60
St. Louis-San Francisco Ry. Co. ⁴	St. Louis, Mo.	1921, 1922	---	548, 532.51	---	230, 663.31	---	---
Stoomvaart-Maatschappij Rotterdam	Rotterdam, Holland	1917	85, 798.71	200, 627.30	85, 798.71	114, 828.59	3, 073.47	42.76
Union Traction Co.	Philadelphia, Pa.	1922-1926	883, 037.88	1, 152, 384.97	883, 037.88	269, 347.09	223, 288.34	76.63
Whitney, Payne, estate of.	New York, N. Y.	1927	637, 041.35	21, 440, 290.00	16, 966, 258.61	4, 474, 031.39	41, 407.69	79.13
Woodward Iron Co. of Delaware ⁴	Woodward, Ala.	{ 1915-1918, 1924	157, 546.71	1, 616, 072.17	752, 900.56	736, 577.51	388, 679.70	46.59
Woolworth, Fred M., estate of.	New York, N. Y.	1923	115, 465.91	149, 425.97	115, 465.91	31, 292.57	28, 327.11	77.27
Wyoming Associated Oil Corporation	Denver, Colo.	{ 1919, 1921-1923	75, 466.08	1, 068, 749.37	75, 466.08	993, 283.29	1, 785.27	7.06
Total.			1, 936, 640.24	41, 911, 604.27	21, 165, 900.59	19, 807, 931.39	1, 487, 953.48	---
<i>December, 1930</i>								
Chile Copper Co. and subsidiaries. ⁴⁰	New York, N. Y.	1923-1925	---	---	---	---	---	---
Frick, Adelaide H. C. (Mrs.)	Pittsburgh, Pa.	1920-1926	410, 711.39	419, 062.60	410, 711.39	8, 351.21	197, 911.86	98.00
Frick, Helen C. (Miss)	Pittsburgh, Pa.	1920-1925	142, 026.78	887, 782.71	143, 921.42	741, 861.29	65, 470.72	16.44
Libbey-Owens Sheet Glass Co.	Toledo, Ohio.	1924-1928	81, 979.79	2, 082, 077.31	81, 979.79	2, 000, 097.52	16, 480.56	3.94
Market Street Ry. Co.	San Francisco, Calif.	1922-1925	53, 666.06	466, 748.39	109, 239.97	357, 508.42	37, 342.95	23.40
Prairie Oil & Gas Co.	Independence, Kans.	1926	278, 297.07	2, 044, 413.76	278, 297.07	1, 766, 116.69	50, 825.43	13.61
Travelers Insurance Co. ⁴¹	Hartford, Conn.	1923	157, 146.74	209, 528.99	157, 146.74	---	59, 724.37	75.00
Total.			59, 468.55	1, 123, 827.83	1, 183, 296.38	4, 873, 835.13	427, 755.89	---

³² Withheld; deficiencies \$2,187,125.77 for 1920 and 1923; paid by Director General of Railroads, \$379,863.38.

³³ Includes excess interest collection of \$38.22.

³⁴ Notice of refund to correct overpayment by the estate.

³⁵ Unadjusted; pending investigation.

³⁶ Entire overassessment of \$246,917.85 withheld in connection with adjustment for proposed deficiencies for 1919 and 1920.

³⁷ Includes excess interest collection of \$5,821.44.

³⁸ Withheld deficiency, \$20,899.63.

³⁹ Barred by statute, \$13,377.63.

⁴⁰ Withheld deficiency, \$66,221.59.

⁴¹ Paid by Director General of Railroads, \$67,369.99.

⁴² Stipulation case; unadjusted.

⁴³ Includes excess interest collection of \$25.28.

⁴⁴ Stipulation case; unadjusted.

⁴⁵ Paid by Director General of Railroads, \$50,366.73.

⁴⁶ Withheld—deficiency, \$50,366.73.

⁴⁷ Entire overassessment of \$317,863.20 withheld in connection with proposed deficiencies for 1923 to 1927.

⁴⁸ Withheld—deficiency, \$126,694.10.

⁴⁹ Barred by statute, \$2,667.49.

⁵⁰ Unadjusted; pending investigation.

⁵¹ Barred by statute, \$52,382.25.

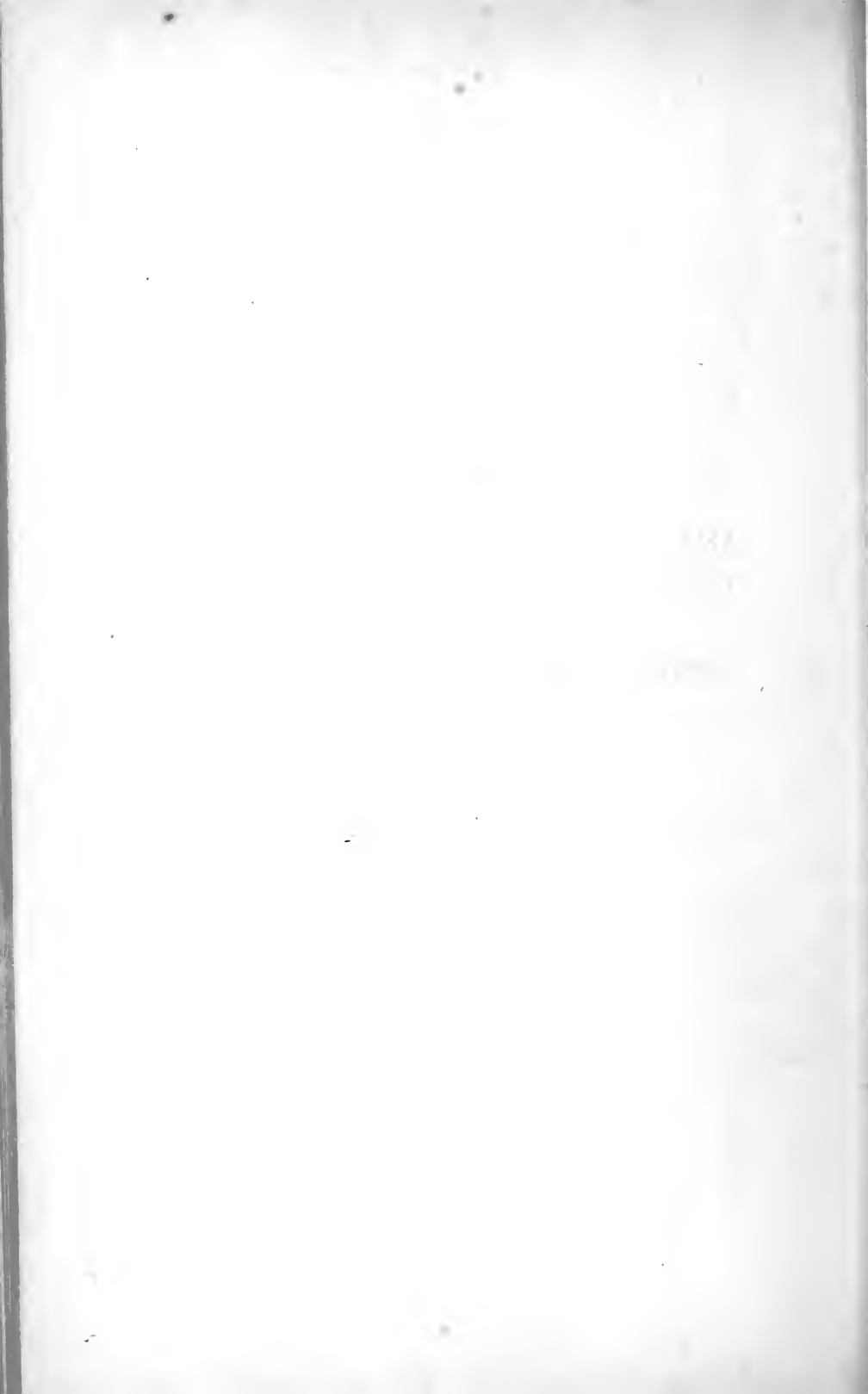
August	James B. Clerk Theatres (Inc.)	Pittsburgh, Pa.	1926	65,081.58	12,237.50
	Colonial Amusement Co.	do	1926		17,067.89
	General Amusement Enterprise (Inc.)	do	1926		18,125.77
	Regent Theatres Corporation	do	1926		13,438.33
	Trusville Amusement Co.	do	1926		375,535.53
October	Oliver Iron & Steel Co.	do	1917-1920		30,284.34
	Oliver & Snyder Steel Co.	do	1918	345,251.19	
	J. Samuels & Bro. (Inc.)	Providence, R. I.	1918, 1920, 1921	123,400.95	
Do	Samuels Land Co.	do	1917	133.13	
				29,426.40	



PART II

ANALYSIS OF OVERASSESSMENTS
TOTALS AND PRINCIPAL CAUSES
FOLLOWED BY A
BRIEF RÉSUMÉ OF EACH CASE

Alphabetically Arranged



ANALYSIS OF OVERASSESSMENTS SHOWING TOTALS AND PRINCIPAL CAUSES

Overassessment cases for the period January 1, 1930, to December 31, 1930, inclusive (total cases, 125)

Original and additional assessments		\$625, 483, 501. 83
Total tax collected	\$529, 110, 550. 49	
Previously allowed	14, 054, 150. 56	
Charged to Director General of Railroads	1, 201, 579. 65	
		544, 366, 280. 70
Overassessments		81, 117, 221. 13
Unadjusted	5, 000. 02	
Barred by statute	393, 123. 10	
Withheld deficiencies	4, 403, 064. 76	
		4, 801, 187. 88
Net overassessments		76, 316, 033. 25
Composed of—		
Refunds		27, 174, 872. 07
Credits		27, 677, 258. 77
Abatements		21, 463, 902. 41
		76, 316, 033. 25
Interest paid on overassessments		21, 187, 620. 11
Total of overassessments and interest		97, 503, 653. 36
Reduction in assessed tax by overassessments reported (per cent)		12. 20
Average percentage of interest paid on overassessments		27. 76

Classification of overassessments

Principal cause	Amount	Per cent of total
Estate tax	\$19, 023, 863. 08	23. 57
Invested capital	12, 263, 512. 08	15. 19
Amortization	11, 488, 524. 70	14. 23
Depreciation	5, 917, 707. 37	7. 33
Special assessment	3, 596, 501. 44	4. 45
Affiliation	3, 298, 609. 04	4. 09
Reallocation of income	2, 442, 624. 77	3. 03
Inventory adjustment	2, 386, 056. 68	2. 96
Depletion	2, 273, 410. 84	2. 82
Foreign taxes	2, 094, 315. 50	2. 59
Order of Board of Tax Appeals	1, 813, 393. 33	2. 25
Supreme Court decision in re National Life Insurance Co. v. United States	1, 742, 822. 73	2. 16
Guaranty period settlements	1, 109, 824. 53	1. 37
Recomputation of profit on sale of securities	822, 881. 68	1. 02
Exclusion of nontaxable income	574, 795. 79	. 71
Expiration of statute	524, 136. 59	. 65
Loss of useful value	463, 710. 38	. 57
Change in accounting period	306, 471. 88	. 38
Remission of interest assessed on deficiencies	248, 010. 99	. 31
Gain or loss on sale of capital assets	196, 341. 03	. 24
Valuations	169, 770. 74	. 21
Gift tax	77, 178. 08	. 10
Miscellaneous	7, 889, 634. 78	9. 77
Total overassessments	80, 724, 098. 03	100. 00
Withheld to meet possible deficiencies	\$4, 403, 064. 76	
Unadjusted	5, 000. 02	
	4, 408, 064. 78	
Net overassessments allowed	76, 316, 033. 25	

RÉSUMÉ OF CASES

(Alphabetically arranged)

ADVANCE RUMELY CO., LA PORTE, IND.

Overassessment:

1916, 1917, 1920	\$78, 865. 98
1918, 1919 (2 cases)	119, 804. 88

Of the overassessment, \$143,253.13 is caused by the allowance of additional deductions for depreciation, since it is determined that the deductions claimed on the returns filed were materially less than the reasonable amounts to which the taxpayer is entitled under the provisions of sections 12 (a) (2), revenue act of 1916, and 234 (a) (7), revenue act of 1918. (Appeal of Union Metal Manufacturing Co., 1 B. T. A. 395; Donaldson Iron Co. v. Commissioner, 9 B. T. A. 1081.)

Losses sustained from operations in a foreign country and for taxes accrued causes \$5,546.92 of the overassessment. (Secs. 2 (a), 12 (a) (2), (4), revenue act of 1916; A. R. R. 15 (C. B. 2, 60).)

Restorations to invested capital of amounts representing capital expenditures erroneously charged to income in prior years, the restatement of the amounts of certain valuation reserves to give effect to such adjustments and an amount for the overstatement of the deduction for the proration of Federal taxes for prior years causes \$42,251.62 of the overassessment. (Secs. 326 (a), revenue act of 1918, 1207, revenue act of 1926, arts. 838 to 841, inclusive, 843 as amended by T. D. 3877 (C. B. V-1, 338), and 845, Regulations 45; appeals of Gillam Manufacturing Co. 1 B. T. A. 967, Russel Wheel & Foundry Co. 3 B. T. A. 1168, and Rockford Brick & Tile Co. 4 B. T. A. 313; Donaldson Iron Co. v. Commissioner, supra.)

The balance of the overassessment in the amount of \$7,619.19 is due to remission of interest assessed on a deficiency.

ALIEN PROPERTY CUSTODIAN, TRUST NO. 23907 (CHEMISCHE FABRIK VON HEYDEN, A. G.), WASHINGTON, D. C.

Overassessment, 1917, 1918	\$334, 621. 20
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The entire overassessment is due to a reduction in the incomes determined in a prior audit on the basis of then existing information resulting in deficiencies in tax since, after a further investigation, it was ascertained that the gross incomes used in such audit were erroneously overstated. (Sec. 10, revenue act of 1916 (as amended by sec. 1206, revenue act of 1917); sec. 233 (b), revenue act of 1918; arts. 66 and 89, Regulations 33 (revised); arts. 91 and 92, Regulations 45, as amended by T. D. 3287 (C. B. I-1, 116); arts. 93 and 550, Regulations 45.)

ALLIED CHEMICAL AND DYE CORPORATION, 61 BROADWAY, NEW YORK, N. Y.

Overassessment, 1923, 1924..... \$85, 231, 45

The amounts of \$49,972.23 and \$341.48 of the overassessment are caused by the allowance of additional deductions for depreciation and depletion respectively, since it was determined the amounts claimed in the returns filed were inadequate. (Sec. 234 (a) (7), revenue act of 1921, and secs. 234 (a) (7) and (8), revenue act of 1924; arts. 161 and 561, Regulations 62; arts. 161, 201, and 561, Regulations 65.)

The allowance of deductions for the obsolescence of the costs of certain tangible assets results in \$23,948.69 of the above overassessment. (Sec. 234 (a) (7), revenue acts of 1921 and 1924, arts. 161, 166, and 561, Regulations 62 and 65; Corsicana Gas & Electric Co. v. Commissioner, 6 B. T. A. 565.)

Other causes comprising the balance of the overassessment and amounts attributable to each are allowance of deductions for amortization of the valuations of certain contracts as at basic date, \$4,060.15 (sec. 234 (a) (1), revenue acts of 1921 and 1924); amortization of bond discount \$40.20 (sec. 233 (a), revenue act of 1921); loss sustained from disposition of foreign bonds, loss incurred through embezzlement, and loss sustained from the sale of certain capital assets, \$1,876.17 (sec. 234 (a) (4) (5), revenue act of 1924); proper accrual for Federal capital stock tax liability, \$1,965.12; adjustment of various reserve accounts, \$1,798.52; the elimination from net income of certain amounts erroneously reported which have since been taken up in taxable income of prior years during which they were properly accrued under the taxpayer's method of accounting, \$1,161.91; exclusion of tax-exempt income, \$66.98.

ALUMINUM CO. OF AMERICA, PITTSBURGH, PA.

Overassessment, 1918..... \$246, 917. 85

The principal cause of overassessment in the amount of \$102,620.69 results from the allowance of an additional deduction for the amortization of war facilities under the provisions of section 234 (a) (8).

The amount of \$98,647.06 results from a redetermination of the consolidated invested capital, since it was determined that the valuations of the assets of certain subsidiary corporations were materially understated. (Sec. 326 (a), revenue act of 1918.)

The correction of erroneous adjustments made in a prior audit for the accrual of State franchise taxes and property taxes causes \$36,836.13 of the overassessment. (Sec. 234 (a) (3), revenue act of 1918.)

The balance of the overassessment in the amount of \$8,813.97 is caused by the allowance of an additional deduction for depletion. (Sec. 234 (a) (9), revenue act of 1918, and the regulations promulgated thereunder.)

ANDERSON, CLAYTON & Co., HOUSTON, TEX.

Overassessment, 1924, 1925, 1926..... \$194, 578. 28

Of the above overassessment, the amount of \$187,656.37 is caused by the correction of amounts reported in the return filed to reflect all

items of gross income and proper deductions therefrom upon the accrual basis in accordance with the method of accounting regularly employed by the taxpayer. (Secs. 212 (b) and 232, revenue acts of 1924 and 1926.)

The balance of the overassessment amounting to \$6,921.91 results from the revision of the reported valuation of the closing inventory. (Sec. 205, revenue act 1926; art. 1612, Regulations 69.)

ARCHER DANIELS LINSEED CO., MINNEAPOLIS, MINN.

Overassessment, 1918, 1919----- \$804, 856. 81

Of the above overassessment, \$703,748.04 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 36404.

The amount of \$62,687.44 of the above overassessment is due to computation of the tax liability in accordance with the method of accounting employed by the taxpayer in keeping its books of account. (Secs. 212, 226, and 239, revenue act of 1918; appeal of Coghlin Electric Co., 3 B. T. A. 1071.)

The balance of the overassessment amounting to \$38,421.33 is caused by an increase in the amount of the consolidated invested capital due to the restoration of the excessive depreciation written off and the inclusion therein of the proper value of the asset of the subsidiary corporations which were understated on the return filed. (Sec. 326, revenue act of 1918; arts. 840, 844, 853, and 864, Regulations 45.)

ASTOR, JOHN JACOB, CARE OF FARMERS' LOAN & TRUST CO.,
NEW YORK, N. Y.

Overassessment, 1921, 1923----- \$325, 008

Overassessment in the amount of \$281,935.88 is caused by the allowance of deductions from the reported income of the correct amounts of income taxes paid to a foreign country on income derived from sources within the United States. (Sec. 214 (a) (3) and (b), revenue act of 1921; arts. 131 and 271, Regulations 62.)

The balance of the overassessment amounting to \$43,072.12 is due to the allowance of an additional deduction for the amount of certain interest paid on indebtedness within the United States. (Sec. 214 (a) (2) and (b), revenue act of 1921; arts. 121 and 271, Regulations 62.)

ATLANTIC REFINING CO., PHILADELPHIA, PA.

Overassessment, 1918----- \$1, 016, 567. 36

The entire overassessment results from the redetermination of the profits tax liability under the provisions of sections 327 and 328, revenue act of 1918, by reason of the inability to determine, satisfactorily, statutory invested capital under the provisions of section 326. Accordingly, the profits tax liability has been determined in an amount which bears the same ratio to the taxpayer's net income as the average tax of representative corporations engaged in a like or similar trade or business bears to their average net income for the same year. (Sec. 327 (a), revenue act of 1918; appeals of the

Viscose Co., 3 B. T. A. 444, and D. N. and E. Walter & Co. (Inc.), 4 B. T. A. 142; Mead Cycle Co. v. Commissioner, 10 B. T. A. 887.)

BANKERS LIFE INSURANCE CO. OF NEBRASKA, LINCOLN, NEBR.

Overassessment, 1918..... \$178,250.56

Of the overassessment, \$161,091.47 is due to the inclusion in invested capital of the proper amount of earned surplus. (Sec. 326 (a) (3), revenue act of 1918; arts. 838 and 870 (as amended by T. D. 4053, C. B. VI-2, p. 292), Regulations 45.)

The balance of the overassessment in the amount of \$17,159.09 is caused by the allowance of a deduction for the net addition required by law to reserve funds, the deduction previously allowed having been understated. (Sec. 234 (a) (10), revenue act of 1918; art. 569, Regulations 45; appeal of United States Fidelity & Guaranty Co., 5 B. T. A. 23.)

The amount of \$2,168.74 is withheld in connection with a proposed deficiency.

BAYLY, J. W. E., ESTATE OF, LOUISVILLE, KY.

Overassessment, 1924, 1925..... \$77,178.08

The entire overassessment represents taxes and interest erroneously assessed on a tax return made pursuant to the provisions of section 3176, Revised Statutes, as amended by section 1103, revenue act of 1926. It was determined that the alleged donative transfers were not made and are not taxable within the purview of section 319, revenue act of 1924, as amended by section 324, revenue act of 1926. (Art. 1, Regulations 67.)

BERKSHIRE COTTON & MANUFACTURING CO., ADAMS, MASS.

Overassessment, 1922..... \$86,378

The overassessment in the amount of \$76,134.99 is due to the revision of the reported valuation of the opening inventory, consistently with the method used in the settlement of the tax liabilities for prior years, which form the basis of a final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 74. (Sec. 203, revenue act of 1921.)

Of the overassessment, \$9,120.67 is due to the allowance of an additional deduction for depreciation based on valuations established and at the rates used in the determination of the tax liability for the preceding years, which formed the basis of the final order of the United States Board of Tax Appeals, *supra*. (Sec. 234 (a) (7), revenue act of 1921; arts. 161 and 561, Regulations 62.)

The allowance of a deduction for bad debts results in \$846.90 of the above overassessment. (Sec. 234 (a) (5), revenue act of 1921; arts. 111, 151, and 561, Regulations 62.) The balance of the overassessment amounting to \$275.44 is due to the allowance of an increased deduction for ordinary and necessary business expenses. (Sec. 234 (a) (1), revenue act of 1921; arts. 101 and 561, Regulations 62.)

BIG FOUR OIL & Gas Co., PITTSBURGH, PA.

Overassessment, 1918, 1919----- \$171, 710. 07

The overassessment represents deficiencies in taxes together with interest and penalties collected after the expiration of the statutory period of limitations provided therefor. (Sec. 607, revenue act of 1928; *Russell v. United States* (278 U. S. 181).)

BOSTON & MAINE RAILROAD, BOSTON, MASS.

Overassessment, 1919----- \$221, 348. 89

The principal cause of overassessment in the amount of \$163,236.68 is due to excluding from income reported in the consolidated return the income of certain lessor corporations for the portion of the year prior to their merger with the taxpayer, during which period they were not affiliated. (Sec. 240, revenue act of 1918.)

Other causes comprising the balance of the overassessment are due to reversing certain erroneous credits to income, \$27,107.72; allowance of a deduction for Federal income taxes paid by the taxpayer on behalf of certain corporations as additional rental under the terms of its leases of properties, \$21,055.96; allowance of a deduction for interest accrued, \$9,930.19; increase in allowance for depreciation, \$18.34.

BROWN-LIPE GEAR Co., SYRACUSE, N. Y.

Overassessment, 1917, 1918, 1919, 1920, 1923, 1925, 1926----- \$306, 862. 44

Of the overassessment, \$68,057.83 is caused by an inventory adjustment correcting an understatement of the opening inventory and an overvaluation of the closing inventory. (Sec. 203, revenue act of 1918; arts. 1582 to 1584, inclusive, Regulations 45, as amended by T. D. 3296 (C. B. I.-1, 40); appeals of F. N. Johnson Co., 2 B. T. A. 256, and Ashtabula Bow Socket Co., 2 B. T. A. 306.)

The amount of \$65,677.40 of the overassessment results from the redetermination of the profits tax liability under the provisions of section 210, revenue act of 1917, and sections 327 and 328, revenue act of 1918, by reason of the inability to determine satisfactorily the statutory invested capital under the provisions of sections 207 and 326 of such acts. (Appeal of the Viscose Co., 3 B. T. A. 444.)

The amount of \$59,876.51 of the overassessment is due to reductions of reported income by reason of certain expenses incurred in such years which were erroneously understated in the returns filed. (Sec. 234 (a) (1), revenue act of 1918; arts. 101 and 561, Regulations 45.)

Allowance of reasonable deductions for depreciation of March 1, 1913, values of certain patents owned by the taxpayer based on the valuations determined and rates established caused \$48,975.15 of the overassessment. (Sec. 234 (a) (7), revenue acts of 1918 and 1926; arts. 161, 163 (as amended by T. D. 4055, C. B. VI-2, 63), and 561, Regulations 45 and 69; appeal of Union Metal Manufacturing Co., 1 B. T. A. 395; *Simmons Co. v. Commissioner*, 8 B. T. A. 631.)

The amount of \$33,985.48 of the overassessment is due to the final order of the United States Board of Tax Appeals entered in the instant case, Docket Nos. 28626, 25557, and 37677.

Amortization of the costs of facilities installed or acquired after April 6, 1917, for the production of articles contributing to the prosecution of the World War causes \$13,886.44 of the overassessment. (Sec. 234 (a) (8), revenue act of 1918, and sec. 1209, revenue act of 1926.)

The balance of the overassessment amounting to \$16,403.63 is caused by increases in reported invested capital representing adjustments made to reflect the proper valuation of certain assets included therein, the inclusion of a surplus reserve which was not taken into consideration in determining invested capital, restorations for excessive deductions for prior year taxes, and proper adjustments made to give effect to the average invested capital. (Sec. 207, revenue act of 1917, and sec. 326, revenue act of 1918; art. 53, Regulations 41; secs. 831, 838, 840, and 845 (a), Regulations 45.)

BROWN, PAUL, ESTATE OF, ST. LOUIS, MO.

Overassessment, 1927----- \$1, 333, 408. 84

The overassessment of estate tax is made pursuant to final orders of the United States Board of Tax Appeals entered in the instant case, Docket No. 44794.

BRYANT PAPER CO., KALAMAZOO, MICH.

Overassessment, 1922 to 1927, inclusive----- \$83, 092. 08

The amounts of \$38,425.78 and \$18,800.38 included in the above overassessment are caused by the allowance of additional deductions for depreciation for plant and equipment and the amortization of the cost of a valuable contract, respectively. (Secs. 234 (a) (1) and (7), revenue acts of 1921, 1924, and 1926; arts. 101, 161, and 561, Regulations 62, 65, and 69.)

Of the overassessment, \$21,898.97 is attributed to a loss incurred from the sale of shares of stock of a certain domestic corporation. (Secs. 202 (a) and 234 (a) (4), revenue act of 1921, arts. 111, 141, 561, and 1561, Regulations 62.) The amount of \$3,898.37 of the above overassessment is caused by the allowance of an additional deduction in computing net income, of the amount of the adjusted net loss determined to have been sustained under the provisions of section 204, revenue act of 1921, and the regulations promulgated thereunder.

Certain book adjustments necessary in order to restate the true taxable net income cause \$42.27 of the overassessment. The balance of the above overassessment, amounting to \$26.31, is due to the allowance of additional deductions for bad debts. (Sec. 234 (a) (5), revenue act of 1921; arts. 151 and 561, Regulations 62.)

CALIFORNIA & HAWAIIAN SUGAR REFINING CORPORATION, SAN FRANCISCO, CALIF.

Overassessment (2 cases):

1927----- \$166, 324. 68
1928----- 156, 741. 34

The entire overassessments are caused as a result of the determination relating to the organization and business activities of the taxpayer whereby it was found that it is an association organized and operated on a cooperative basis within the purview of section 231 (12)

of the revenue act of 1926 and section 103 (12), revenue act of 1928, and is exempt from taxation. (Art. 523, Regulations 69; art. 532, Regulations 74.)

THE CEMENT SECURITIES CO., DENVER, COLO.

Overassessment, 1917, 1920, 1921 ----- \$267, 448. 71

Of the overassessment \$227,212.39 is caused by adjustments of invested capital to include therein the actual cash value of certain property at the time paid in. (Sec. 207, revenue act of 1917, and sec. 326, revenue act of 1918.)

Of the balance of the overassessment, the amount of \$26,387.36 is caused by the allowance of deductions for losses sustained on the final disposition of certain capital assets (sec. 234 (a) (4), revenue acts of 1918 and 1921); \$7,686.54 and \$1,503.89 result from the allowance of additional deductions for depreciation and depletion, respectively (sec. 12 (a) (2), revenue act of 1916); and \$4,658.53 is due to the allowance of a deduction for capital stock taxes (sec. 234 (a) (3), revenue act of 1918; arts. 131 and 561, Regulations 45; appeal of Jamestown Worsted Mills 1 B. T. A. 659).

CENTRAL LEATHER CO. AND SUBSIDIARIES, NEW YORK CITY

Overassessment, 1917 ----- \$194, 207. 73

The above overassessment represents deficiencies in taxes assessed after the expiration of the statutory period of limitation provided therefor as extended by waivers. (Sec. 607, revenue act of 1928.)

CHAMPION SPARK PLUG CO., TOLEDO, OHIO

Overassessment, 1918, 1919 ----- \$222, 159. 69

The amount of \$200,551.25 included in the overassessment is caused by the redetermination of the profits-tax liabilities under the provisions of sections 327 and 328 of the revenue act of 1918, due to the existence of abnormal conditions whereby the value of certain intangible property can not be satisfactorily determined so as to be included in the statutory invested capital for each year. Accordingly the profits-tax liabilities have been determined in amounts which bear the same ratios to the taxpayer's net incomes as the average taxes of representative corporations engaged in a like or similar trade or business bear to their average net income for the same years. (Secs. 327 and 328, revenue act of 1918.)

Revaluations of inventories cause \$11,650.22 of the above overassessment. (Sec. 203, revenue act of 1918.)

The balance of the above overassessment amounting to \$9,958.22 is due to the allowance of deductions for the amount of rent paid for the use of additional plant facilities. (Sec. 234 (a) (1), revenue act of 1918.)

CHILE COPPER CO. AND SUBSIDIARY, NEW YORK, N. Y.

Overassessment, 1918 ----- \$119, 534. 84

The allowance of increased deductions for amortization of war facilities under the provisions of section 234 (a) (8) of the revenue act of 1918 is responsible for \$78,679.73 of the overassessment.

Of the overassessment, the amount of \$22,589.86 is due to the allowance of additional deductions for ordinary and necessary business expenses and taxes. (Sec. 234 (a) (1), and (3), revenue act of 1918; arts. 101, 131, and 561, Regulations 45.)

The amount of \$11,527.29 of the overassessment is due to the elimination of the income of certain subsidiary corporations included in the consolidated return filed, since it is determined that such companies were not affiliated with the taxpayer corporation during the years involved within the purview of section 240, revenue act of 1918, by reason of the fact that substantially all of the capital stock of the subsidiary corporations was not owned or controlled by the taxpayer or the same interests which owned or controlled the capital stock of the taxpayer. -

The balance of the overassessment, amounting to \$6,737.96, results from erroneous overstatement of sales, which amount has been restored go the income of the prior year, and to the exclusion from the reported gross income of certain tax-exempt interest. (Sec. 233 (a), revenue act of 1918; art 541, Regulations 45, as amended by T. D. 3612 (C. B. III-2, 244).)

THE CHURNGOLD CORPORATION, CINCINNATI, OHIO

Overassessment, 1920..... \$82, 382. 93

The entire overassessment is caused by the elimination of portions of incomes of subsidiary corporations included in the consolidated return filed, since it was determined that they were not affiliated with the taxpayer corporation during parts of the taxable period involved within the purview of section 240, revenue act of 1918.

CINCINNATI MILLING MACHINE CO., CINCINNATI, OHIO

Overassessment, 1918..... \$86, 570. 25

The entire overassessment is caused by a redetermination of the profits tax liability under the provisions of sections 327 and 328 of the revenue act of 1918, due to inability to determine the taxpayer's statutory invested capital under the provisions of section 326 of the revenue act of 1918. (Sec. 327 (a), revenue act of 1918; Akron Rubber Mould & Machine Co. v. Commissioner, 12 B. T. A. 1252.)

THE JAMES B. CLARK THEATRES (INC.) ET AL., PITTSBURGH, PA.

Overassessment, 1926..... \$125, 951. 07

Of the overassessment, \$125,813.39 is due to exclusion from income of profits computed on assets exchanged for cash and capital stock of another corporation pursuant to a plan of reorganization. (Sec. 203 (b) (3), revenue act of 1926.)

The balance of the overassessment in the amount of \$137.68 results from the remission of interest assessed on deficiencies in tax, since the determination of an overassessment results in a proportionate reduction of the interest.

CLIFTON MANUFACTURING CO., CLIFTON, S. C.

Overassessment, 1918, 1919..... \$87, 972. 22

Of the overassessment, \$68,707.20 is caused by an inventory adjustment correcting an understatement of the opening inventory and an overvaluation of the closing inventory. (Sec. 203, revenue act of 1918; art. 1582, Regulations 45 as amended by T. D. 3296 (C. B. I-1, 40).)

The balance of the overassessment in the amount of \$19,265.02 results from the remission of interest assessed on deficiencies in tax.

CONTINENTAL CAN CO. (INC.), NEW YORK, N. Y.

Overassessment, 1920 to 1922, inclusive, 1926, 1927..... \$162, 098. 24

The allowance of reasonable deductions for depreciation of the March 1, 1913, values of certain patents owned by the taxpayer is responsible for \$129,777.93 of the overassessment. (Sec. 234 (a) (7), revenue acts of 1918, 1921, and 1926.)

Of the overassessment, \$15,897.98 is due to the allowance of additional deductions for compensation paid to employees. (Sec. 234 (a) (1), revenue act of 1926.)

An adjustment of inventories causes \$13,318.91 of the overassessment. (Sec. 205, revenue act of 1926; art. 1612, Regulations 69; appeal of F. N. Johnson Co., 2 B. T. A. 256.)

Allowances made to customers on sales, and an additional deduction for the amount of loss sustained by reason of the abandonment of certain obsolete equipment causes \$2,600.84 and \$502.58, respectively, of the overassessment. (Secs. 204 and 234 (a) (4), revenue act of 1926.)

CORPORATE INVESTMENT CO., CHICAGO, ILL.

Overassessment, 1928..... \$101, 522. 65

The amount of \$101,377.16 of the overassessment is due to the elimination of amounts erroneously reported as income in the return filed, as it was determined that a portion of the income reported was not computed in accordance with the method of accounting regularly employed as required by the provisions of section 41, revenue act of 1928. (Arts. 321 and 322, Regulations 74.)

The balance of the overassessment amounting to \$145.49 results from the allowance of a loss sustained on the disposition of certain assets and from a decrease in the reported amount of interest received. (Secs. 22 (a) and 23 (f) (g), revenue act of 1928; art. 51 and 174, Regulations 74.)

CRESCENT NEWS & HOTEL CO., NASHVILLE, TENN.

Overassessment, 1918 to 1920, inclusive..... \$161, 741. 95

The entire overassessment results from duplicate assessments caused by the determination of the tax liabilities of the above-named taxpayer, and of the corporations with which it was affiliated during the above years on the basis of an affiliated group and the assumption of the total tax liability, as agreed upon by the respective affiliated corporations, by the parent corporation against which deficiencies in

tax have been determined. (Sec. 240, revenue act of 1918; arts. 633, as amended by T. D. 4100 (C. B. VI-2, 254), and 637, Regulations 45.)

DARTMOUTH MANUFACTURING CORPORATION, NEW BEDFORD, MASS.

Overassessment, 1921----- \$239, 435. 60

Of the overassessment, \$199,060.48 is caused by an inventory adjustment correcting an understatement of the opening inventory and an overvaluation of the closing inventory. (Secs. 203, revenue acts of 1918 and 1921; arts. 1582 and 1584, inclusive, Regulations 45, as amended.)

The allowance of an additional deduction for the amount of a loss sustained by reason of the abandonment of certain assets results in \$22,271.23 of the overassessment. (Secs. 202 and 234 (a) (4), revenue acts of 1918 and 1921.)

The allowance of an additional deduction for depreciation caused \$13,976.05 of the overassessment. (Sec. 234 (a) (7), revenue acts of 1918 and 1921.)

Minor adjustments representing allowances for ordinary and necessary business expenses, amortization of bond discount and the exclusion from the reported gross income of certain tax-exempt income caused \$4,127.84 of the overassessment.

DELAWARE, LACKAWANNA & WESTERN RAILROAD CO., NEW YORK, N. Y.

Overassessment, 1916 to 1922, inclusive; 1924, 1925, 1926----- \$2, 373, 330. 93

The amount of \$837,131.86 of the overassessment results from the exclusion of the reported net income of certain subsidiary corporations erroneously included in the consolidated returns filed by the taxpayer. (Secs. 240 (b), revenue act of 1918, and 240 (c), revenue acts of 1921, 1924, and 1926.)

Overassessment in the amount of \$543,139.44 is due to adjustments in connection with the accounting for income during the so-called guaranty period, that is, the period from March 1 to August 31, 1920, when income of the carriers was guaranteed in accordance with the provisions of section 209 of the transportation act of 1920.

Restorations to the reported invested capital due to capital expenditures erroneously charged to income in prior years, restatement of certain valuation reserves to give effect to such adjustment, and the elimination of the deduction for inadmissible assets caused \$501,194.61 of the overassessment. (Sec. 207, revenue act of 1917.)

Other causes of overassessment and amounts attributable to each are as follows: Depletion, \$130,835.26; depreciation, \$38,836.68; losses incurred by reason of the destruction, sale, abandonment, or retirement of capital assets, \$57,532.46; additional rental expense, \$174,907.20; compensation paid to employees, \$18,097.74; interest and taxes erroneously capitalized, \$9,129.80; State and municipal taxes, \$2,130.45; miscellaneous operating expenses, \$5,513.96; abatement of a deficiency in tax, \$54,307.30; correction of an accounting error, \$574.17.

The amount of \$2,162,278.28 is withheld for adjustment in connection with proposed deficiencies for 1920 and 1923.

DERSCHUG, JOHN N., SYRACUSE, N. Y.

Overassessment, 1920, 1924, 1925..... \$178, 484. 66

Of the overassessment, \$89,340.63 is due to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 18064.

The exclusion from the reported income of the capital net gain derived from the sale of certain assets caused \$49,499.38 of the overassessment. (Secs. 208 (e) and 219, revenue act of 1924.) Also, \$38,615.78 of the overassessment is due to a reduction in the amount of capital net gain derived from the sale of certain capital assets.

The exclusion from income returned of an amount erroneously reported as a dividend received from a domestic corporation and the allowance due to an excess interest collection results in \$930 and \$98.87 of the overassessment.

DET FORENEDE DAMPSKIBS-SELSKAB, AKTIESELSKAB, COPENHAGEN, DENMARK

Overassessment, 1918..... \$620, 833. 76

Of the overassessment, \$428,953.40 is caused by a redetermination of the total net income received from all sources within the United States upon an apportionment of revenues instead of upon the extent to which income was derived from freight and passenger traffic originating within the United States which previously formed the basis for the assessment of tax liability. (Secs. 217 and 233, revenue act of 1918; T. D. 3387 (C. B. I-2, 153); T. D. 4201 (C. B. VII-2, 133).)

The balance of the overassessment in the amount of \$191,880.36 results from the determination of the profits tax liability under the provisions of sections 327 and 328, revenue act of 1918, by reason of the fact that the taxpayer is a foreign corporation.

DODGE, JOHN F., ESTATE OF, DETROIT, MICH.

Overassessment, 1920..... \$466, 900. 15

Of the above overassessment, \$434,549.12 is caused by the allowance of deductions representing amounts paid for administrators' commissions, miscellaneous expenses of administration, and claims against the estate incurred, proven, and paid subsequent to the filing of the Federal estate tax return. (Sec. 403 (a) (1), revenue act of 1918; arts. 42, 44, and 45, Regulations 37.)

The balance of the above overassessment in the amount of \$32,351.03 is due to the remission of interest assessed on a deficiency in tax, since the determination of an overassessment results in a proportionate reduction of the interest.

EASTMAN KODAK CO. OF NEW JERSEY, ROCHESTER, N. Y.

Overassessment, 1920 to 1923, inclusive..... \$2, 542, 304. 59

Of the overassessment, \$819,832.99 is due to the recomputation of the consolidated net income and statutory invested capital under the provisions of sections 232 and 326, respectively, revenue act of 1918 and the regulations promulgated thereunder, since it was deter-

mined that the reported taxable income and invested capital were based entirely on estimates, which greatly overstated the true net income and understated the correct statutory invested capital.

The allowance of deductions for additional compensation paid to employees caused \$558,372.88 of the overassessment. (Sec. 234 (a) (1), revenue act of 1921.)

Other causes of overassessment and amounts attributable to each are as follows: Losses in foreign exchange, \$282,510.89; losses sustained on sales of certain foreign bonds, \$8,380.41; loss incurred from abandonment of certain assets, \$6,976.88; adjustment of various reserve accounts, \$272,635.93; restorations to invested capital, \$252,526.64; inventory adjustment, \$180,371.62; allowance for depreciation, \$67,269.54; accrual of State franchise taxes, \$60,310.50; correction of accounting errors, \$20,285.19; elimination of intercompany profits, \$12,831.12.

EASTERN MANUFACTURING CO. OF MAINE, BANGOR, ME.

Overassessment, 1918..... \$281, 470

The principal cause of overassessment in the amount of \$214,872.29 is due to losses sustained from the destruction of certain assets. (Sec. 234 (a) (4), revenue act of 1918.)

The balance of the overassessment is due to increases in the deductions for expenses, interest, and taxes in order to reflect amounts accrued consistent with the taxpayer's accounting method, \$24,069.53; inventory adjustment, \$20,728.68; amortization of bond discount, \$11,391.24; elimination of income of certain subsidiary corporations included in the consolidated return filed and the assessment of taxes against such corporations separately, \$5,245.02; elimination of unrealized profits resulting from mere book entries, \$4,994.41; and the allowance of a deduction for bad debts, \$168.83.

EASTERN STEAMSHIP LINES (INC.), BOSTON, MASS.

Overassessment, 1924 to 1927, inclusive..... \$79, 422. 13

Of the overassessment, \$49,590.18 is caused by the allowance of additional deductions for depreciation. (Secs. 234 (a) (7), revenue acts of 1924 and 1926.)

The amount of \$24,545.29 is caused by the allowance of credits for foreign taxes. (Secs. 238 (e), revenue acts of 1924 and 1926.)

Losses sustained on the final disposition of certain assets and the correction of an accounting error caused \$4,975 and \$273.44, respectively, of the overassessment.

The balance of the overassessment in the amount of \$38.22 represents an excess interest collection.

ERIE RAILROAD CO., NEW YORK, N. Y.

Overassessment, 1918, 1919..... \$86, 434. 24

The principal cause of overassessment in the amount of \$64,669.72 is caused by the allowance of a deduction for depreciation under the provisions of section 234 (a) (7), revenue act of 1918.

Other causes involved are amortization of bond discount, \$6,724.21; omission of interest accrued in return filed, \$14,568.90; exclusion of

compensation for use of taxpayer's railroad properties pursuant to the Federal control act of March 21, 1918, \$397.53; exclusion from taxable income of the 2 per cent tax paid by the Director General of Railroads, \$73.88.

FAIRBANKS, DOUGLAS (MR.), LOS ANGELES, CALIF.

Overassessment, 1924, 1925, 1926..... \$109,768.83

The amount of \$85,895.31 is caused by the allowance of a deduction for depreciation. The costs of certain assets were erroneously deducted as expenses in the returns filed, which costs have been capitalized and depreciation allowed thereon at the rates used in the determination of the tax liabilities for other years, which formed the basis of a final order of the United States Board of Tax Appeals in the instant case, Docket No. 33662. (Secs. 214 (a) (8), revenue acts of 1924 and 1926.)

The balance of the overassessment of \$13,421.14 and \$10,151.82 is due to a recomputation of the gain derived from the sale of certain assets, and the allowance of an additional deduction for ordinary and necessary business expenses; also, \$300.56 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 33662.

FARRELL FOUNDRY & MACHINE CO., ANSONIA, CONN.

Overassessment, 1918..... \$84,612.92

Amortization of war facilities under the provisions of section 234 (a) (8) of the revenue act of 1918 is responsible for \$68,874.92 of the overassessment.

The balance of the overassessment in the amount of \$15,738 is caused by the allowance of an additional deduction for depreciation. (Sec. 234 (a) (7), revenue act of 1918.)

FIRST NATIONAL BANK, BIRMINGHAM, ALA.

Overassessment, 1918 to 1924, inclusive..... \$101,346.80

Of the overassessment \$59,271.23 is caused by decreases in the gross income, since it is determined that the gross income as disclosed in prior audits is overstated by reason of erroneous bookkeeping methods employed. (Secs. 213 (a) and (b) (4) and 233 (a), revenue acts of 1918, 1921, and 1924.)

The amount of \$23,272.89 is due to increases in the invested capital on account of restoration thereto of certain amounts for items which were erroneously charged off the taxpayer's books. (Sec. 326, revenue act of 1918.)

Other causes of overassessment and amounts attributable to each are as follows: The allowance of additional deductions for taxes and dividends received from domestic corporations, \$8,111.20; bad debts, \$2,382.02; exclusion of profit realized on sale of certain real estate, \$1,111.61; remission of interest assessed on deficiencies, \$1,376.41; excess interest collection, \$5,821.44.

FRICK, ADELAIDE H. C., PITTSBURGH, PA.

Overassessment, 1920 to 1926, inclusive..... \$410, 675. 39

Of the overassessment, \$392,700.37 is caused by eliminations from incomes reported of certain amounts erroneously included therein, as it was determined that such amounts do not constitute taxable income.

The amount of \$17,766.08 is caused by the allowance of deductions for State inheritance taxes in accordance with the retroactive provisions of section 703 (a) (5), revenue act of 1928.

The balance of the overassessment in the amount of \$244.94 is caused by minor adjustments of income and expense for depreciation, capital net losses, and Liberty bond interest.

FRICK, HELEN C., PITTSBURGH, PA.

Overassessment, 1920 to 1925, inclusive..... \$145, 921. 42

The principal cause of overassessment in the amount of \$140,266.46 is due to eliminations from incomes reported of certain amounts included therein as income received from an estate and certain trusts, as it was determined that the incomes reported as derived from these sources were erroneously overstated.

Of the overassessment, \$5,246.70 is caused by the allowance of deductions from State inheritance taxes in accordance with the retroactive provisions of section 703 (a) (5), revenue act of 1928.

The balance of the overassessment in the amount of \$408.26 is caused by minor adjustments of income and expense for depreciation and Liberty bond interest.

GILLICAN-CHIPLEY Co. (INC.), NEW ORLEANS, LA.

Overassessment, 1920..... \$149, 047. 78

Of the overassessment, \$137,653.45 is caused by the elimination of the incomes of subsidiary corporations included in the consolidated return filed, since it was determined that such companies were not affiliated with the taxpayer corporation during the year involved within the purview of section 240, revenue act of 1918.

Other causes comprising the balance of the overassessment and the amounts attributable to each are: Allowance for ordinary and necessary business expenses, \$5,466.80; allowance of additional deductions for bad debts, \$3,980.86; exclusion from reported gross income of certain tax-exempt income erroneously included therein, \$1,946.67.

GOELET, MARY R., ESTATE OF, NEW YORK, N. Y.

Overassessment, 1929..... \$186, 752. 30

An overpayment of estate tax is responsible for the entire overassessment, the taxpayer having deposited with the collector an amount in excess of the net assessed tax liability.

THE GREAT LAKES COAL MINING CO., NEW PITTSBURGH COAL CO.,
TRANSFEE, COLUMBUS, OHIO

Overassessment, 1918..... \$77,675.13

The allowance of increased deductions for amortization of war facilities under the provisions of section 234 (a) (8) of the revenue act of 1918 is responsible for \$77,604.92 of the overassessment.

The balance of the overassessment, amounting to \$70.21, is caused by an increase in invested capital representing adjustments made to reflect the proper valuation of certain assets. (Sec. 326 (a), revenue act of 1918.)

GROSVENOR-DALE CO., PROVIDENCE, R. I.

Overassessment, 1920..... \$120,517.73

The overpayment represents a portion of an overassessment previously allowed this taxpayer for the year 1920 which was credited against a deficiency in tax for the year 1917 after the expiration of the statutory period of limitation for the assessment and collection of the deficiency. (Sec. 609, revenue act of 1928.)

HARKNESS, ANNA M., ESTATE OF, NEW YORK, N. Y.

Overassessment, 1926..... \$190,948.24

Of the overassessment, \$79,183.68 is caused by the allowance of deductions representing additional amounts paid for attorneys' fees, miscellaneous administration expenses, and claims against the estate incurred, proven, and paid subsequent to the filing of the Federal estate tax return. (Sec. 303 (a) (1), revenue act of 1926; arts. 29, 34, 35, and 36, Regulations 70.)

The balance of the overassessment in the amount of \$111,764.56 is due to the allowance of a credit under the provisions of section 301 (b), revenue act of 1926, representing State inheritance taxes paid subsequent to the filing of the Federal estate tax return. (Art. 9 (a), Regulations 70.)

HARRISBURG PIPE & PIPE BENDING CO., HARRISBURG, PA.

Overassessment, 1917, 1918, 1920..... \$383,339.43

The amount of \$332,580.02 of the overassessment results from the redetermination of the profits tax liabilities under the provisions of sections 210, revenue act of 1917, and 327 and 328, revenue act of 1918, because of abnormalities affecting the capital whereby the values of certain assets used in the business may not be included in the statutory invested capital which work upon the taxpayer an exceptional hardship evidenced by gross disproportion between the taxes computed without the benefit of such sections and the taxes computed by reference to the representative corporations engaged in like or similar trades or businesses.

The balance of the overassessment of \$50,759.41 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 14299.

HEPBURN, ALONZO BARTON, ESTATE OF, NEW YORK, N. Y.

Overassessment, 1920, 1921, 1922..... \$101, 524. 27

The amount of \$48,313.42 of the overassessment is caused by the recomputations of the profits derived from sales of stock subscription rights. (Sec. 213 (a), revenue acts of 1918 and 1921.)

Of the overassessment, \$34,423.97 is caused by the allowance of a deduction for State inheritance taxes. (Sec. 703, revenue act of 1928.)

A recomputation of the profits realized from sales of certain assets based on fair market value of such assets at the death of the decedent as established for Federal estate tax purposes is responsible for \$18,238.99 of the overassessment. (Sec. 219, revenue act of 1921.)

The balance of the overassessment in the amount of \$547.89 is caused by the correction of an accounting error.

HIGGINS HOLDING CO. (INC.), NEW YORK, N. Y.

Overassessment, 1928..... \$355, 057. 31

The overassessment is caused by the fact that the return filed included the income of the taxpayer's sole stockholder, against whom a deficiency in tax, in excess of the above-indicated overassessment, has been assessed.

HONOLULU CONSOLIDATED OIL CO., SAN FRANCISCO, CALIF.

Overassessment, 1913, 1916 to 1920, inclusive, 1922, 1923, 1924... \$871, 264. 96

Of the overassessment, \$566,820.96 is caused by elimination from gross incomes of amounts of certain funds impounded by court order, erroneously reported on the tax returns, which amounts are taken up in the year properly accrued. (Secs. II (G) (a), revenue act of 1913; 10, revenue act of 1916 as amended by sec. 1206, revenue act of 1917; 233 (a), revenue acts of 1918 and 1921.)

Other causes of overassessment and amounts attributable to each are as follows: Increase in allowance for depreciation, \$160,748.28; depletion, \$62,730.84; restorations to invested capital, \$80,888.52; allowance of a deduction for tax-exempt interest, \$76.36.

HUDSON MOTOR CAR CO., DETROIT, MICH.

Overassessment, 1919, 1921..... \$76, 183. 59

Overassessment in the amount of \$40,171.36 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 25708.

Of the overassessment, \$26,974.84 is due to the understatement of the opening inventory. (Sec. 203, revenue act of 1918.)

Other causes comprising the balance of the overassessment are allowance of additional deductions for ordinary and necessary business expenses, \$487.84; depreciation, \$623.93; loss sustained on sale of capital assets, \$2,693.92; increase in invested capital, \$360.23; affiliation, \$4,871.47.

HUMBLE OIL & REFINING CO., HOUSTON, TEX.

Overassessment, 1924..... \$247, 123. 39

The entire overassessment is caused by the allowance of an additional deduction for depletion, since it is determined that the deduction claimed in the tax return is inadequate and less than the reasonable allowance authorized by section 234 (a) (8), revenue act of 1924, and the regulations promulgated thereunder.

ILLINOIS CENTRAL RAILROAD CO., CHICAGO, ILL.

Overassessment, 1918, 1920, 1921, 1922..... \$1, 024, 721. 35

Of the overassessment, \$497,956.23 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 35650.

Overassessment in the amount of \$145,881.31 is due to adjustment in connection with accounting for income during the so-called guaranty period; that is, the period from March 1 to August 31, 1920, when income of the carriers was guaranteed in accordance with the provisions of section 209 of the transportation act of 1920.

Additional deductions for taxes accrued causes \$112,203.87; additional depreciation allowances, \$76,300.90; amortization of bond discount and interest, \$75,580.37; ordinary and necessary business expenses, \$38,310.51; affiliation, \$1,199.40; exclusion from taxable income of contributions received for the construction of spur tracks, \$3,089.32; and minor adjustments of income and expense, \$199.44 of the overassessment.

The amount of \$74,000 is withheld for adjustment in connection with a proposed deficiency for the year 1928.

ILLINOIS TRACTION CO., CHICAGO, ILL.

Overassessment, 1920 to 1922, inclusive..... \$201, 234. 80

The entire overassessment is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 38156.

INTERNATIONAL NAVIGATION CO. (LTD.), NEW YORK, N. Y.

Overassessment, 1919..... \$80, 970. 06

Of the overassessment, \$45,002.87 results from the determination of the profits tax liability under the provisions of sections 327 and 328, revenue act of 1918, by reason of the fact that the taxpayer is a foreign corporation.

The balance of the overassessment in the amount of \$35,967.19 is caused by a redetermination of the total net income received from all sources within the United States upon an apportionment of revenues instead of upon the extent to which income was derived from freight and passenger traffic originating within the United States which previously formed the basis for the assessment of tax liability. (Secs. 217 and 233, revenue act of 1918; T. D. 3387 (C. B. I-2, 153); T. D. 4201 (C. B. VII-2, 133).)

JAVA-CHINA-JAPAN LIJN, SAN FRANCISCO, CALIF.

Overassessment, 1917, 1918, 1919----- \$316, 530. 45

The causes of overassessment are the same as shown above in the International Navigation Co. (Ltd.) case in the amounts of \$58,235.95 and \$258,294.50, respectively.

KANSAS GAS & ELECTRIC CO. AND SUBSIDIARIES, WICHITA, KANS.

Overassessment, 1924, 1926----- \$84, 486. 90

Of the overassessment, \$74,286.90 is caused by the allowance of additional deductions for depreciation, since it is determined that the deductions claimed on the returns filed were materially less than the reasonable amounts to which the taxpayer is entitled under the provisions of sections 234 (a) (7), revenue acts of 1924 and 1926. (Arts. 161 and 561, Regulations 65 and 69.)

The balance of the overassessment, amounting to \$10,200, is due to the allowance of an additional deduction for ordinary and necessary business expenses and repairs. (Sec. 234 (a) (1), revenue act of 1924; arts. 101, 104, and 561, Regulations 65.)

G. R. KINNEY CO. (INC.), NEW YORK, N. Y.

Overassessment, 1917, 1918, 1919----- \$92, 114. 78

Overassessment in the amount of \$33,635.26 is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 29635.

The balance of the overassessment, in the amount of \$58,479.52, is caused by an inventory adjustment correcting an understatement of the opening inventory and an overvaluation of the closing inventory. (Sec. 203, revenue act of 1918.)

KUEMMERLE, GUSTAVE A., ESTATE OF, PHILADELPHIA, PA.

Overassessment, 1927----- \$143, 197. 66

The entire overassessment of estate tax is caused by the allowance of a credit under the provisions of section 301 (b), revenue act of 1926, representing the amount of State inheritance taxes paid subsequent to the filing of the Federal estate tax return. (Art. 9 (a), Regulations 70.)

LEHIGH PORTLAND CEMENT CO., ALLENTOWN, PA.

Overassessment, 1921, 1922, 1923----- \$83, 984. 98

The principal cause of overassessment, in the amount of \$67,386.56, is due to the revision of reported valuations of opening and closing inventories, correcting an understatement of opening inventory, and an overvaluation of closing inventory. (Sec. 203, revenue act of 1921.)

Of the overassessment, \$16,440.70 is due to an increased allowance for depreciation. (Sec. 234 (a) (7), revenue act of 1921, and the regulations promulgated thereunder.)

The balance of the overassessment, amounting to \$157.72, is caused by the allowance of additional deductions for bad debts and taxes. (Sec. 234 (a) (3) and (5), revenue act of 1921.)

LIBBEY-OWENS SHEET GLASS CO., TOLEDO, OHIO

Overassessment, 1924 to 1928, inclusive..... \$81, 979. 79

The overassessment to the extent of \$66,916.30 results from the exclusion of portions of profits derived by the taxpayer from a certain joint venture, since it was determined that the profits reported in the tax returns were erroneously overstated. (Secs. 213 (a) and 233 (a), revenue acts of 1924 and 1926, and sec. 22 (a), revenue act of 1928.)

Of the overassessment, \$10,672.41 is caused by the elimination from the taxable income for the year 1924 of a certain amount which was erroneously reported in the tax return, since it was determined that such income accrued during the year 1922 and was included in the taxable income which formed the basis for an assessment of a deficiency in tax for that year. (Secs. 213 (a) and 233 (a), revenue act of 1924.)

The balance of the overassessment in the amount of \$4,391.08 is due to the allowance of additional deductions for depreciation. (Sec. 234 (a) (7), revenue acts of 1924 and 1926, and sec. 23 (k), revenue act of 1928.)

MADEIRA HILL & CO., PHILADELPHIA, PA.

Overassessment, 1918..... \$180, 987. 17

Of the overassessment, \$159,742.52 is caused by the determination of the war-profits credit on the basis of the pre-war net income and invested capital as provided by section 311 (a), revenue act of 1918, since it is determined that the war-profits credit claimed in the tax return is less than that to which the taxpayer is entitled under the foregoing provision of the act.

The balance of the overassessment in the amount of \$21,244.65 is due to an increase in invested capital resulting from restoration to capital account of expenditures erroneously charged to expense, adjustments made to reflect the cost of certain assets at date of acquisition, and the value of certain other assets, and by decreasing the percentage of inadmissible assets. (Sec. 326, revenue act of 1918.)

MANVILLE, THOMAS FRANKLIN, ESTATE OF, NEW YORK, N. Y.

Overassessment, 1925..... \$118, 941. 69

The overassessment is caused by the allowance of a deduction representing the value of property forming a part of the gross estate which is identified as having been received or exchanged for property received by the decedent by bequest from a prior decedent who died within five years previous to the death of the decedent. (Sec. 303 (a) (2), revenue act of 1924; arts. 41, 42 and 43, Regulations 70; *Rodenbough v. United States*, 25 Fed. (2d), 13.)

MARKET STREET RAILWAY CO., SAN FRANCISCO, CALIF.

Overassessment, 1922 to 1925, inclusive..... \$109, 239. 97

The entire overassessment is made pursuant to the final orders of the United States Board of Tax Appeals entered in the instant case, Docket Nos. 30254 and 39000.

MCLAREN, PETER, ESTATE OF, PERTH, ONTARIO, CANADA

Overassessment, 1919..... \$113, 945. 31

The entire overassessment of estate tax is caused by a reduction in the valuation at which certain assets were included in the gross estate in a prior audit of the case as a result of which a deficiency in tax was assessed, and a proportionate reduction in the amounts of the deductions allowable from the gross estate by reason thereof, since it was determined that the values at which such assets were included in the gross estate were materially overstated. (Secs. 402 and 403 (b) (1), revenue act of 1918.)

MIDDLE WEST UTILITIES CO. AND NORTH WEST UTILITIES CO.,
CHICAGO, ILL.

Overassessment, 1920, 1921..... \$266, 008. 05

The principal cause of the overassessment in the amount of \$110,-909.45 is due to the elimination of the incomes of several subsidiary corporations included in the consolidated returns and the assessment of taxes against such subsidiary corporations separately, as it was determined they were not affiliated with the taxpayer corporation within the purview of section 240, revenue acts of 1918 and 1921.

The balance of the overassessment is due to the allowance of additional deductions for depreciation, \$68,606.51; exclusion of intercompany profits, \$40,972.47; amortization of bond discount and expense, \$27,170.44; elimination of unrealized profits resulting from mere book entries, \$15,830.96, and bad debts, taxes, and interest, \$2,446.21; excess interest collection, \$72.01.

METROPOLITAN LIFE INSURANCE CO., NEW YORK, N. Y.

Overassessment, 1923..... \$631, 135. 22

The entire overassessment results from the allowance of deductions from gross income reported of 4 per cent of the mean of reserve funds required by law and held during the taxable year unabated by interest received exempt from taxation, and for certain interest received during the taxable year exempt from taxation which was not claimed as a deduction in the tax return filed. (Sec. 245 (a) (1) and (2), revenue act of 1921; *National Life Insurance Co. v. United States* (277 U. S. 508).)

JOHN MORRELL & Co., OTTUMWA, IOWA

Overassessment, 1920, 1921..... \$202, 805. 48

The abatement of an erroneous assessment made for the fiscal year 1920, but properly applicable to a subsequent year, causes \$125,000 of the overassessment.

Of the overassessment, \$45,217.77 is caused by the allowance of credit against the adjusted tax liabilities for amounts of taxes paid to foreign countries. (Sec. 238, revenue acts of 1918 and 1921.)

Other causes of the overassessment and amounts attributable to each are as follows: Restorations to invested capital, \$12,349.25; increase in allowance for depreciation, \$4,757.22; remission of interest assessed on deficiency, \$15,431.24; correction of administrative error, whereby duplicate assessment was eliminated, \$50.

NETHERLANDS AMERICAN STEAM NAVIGATION CO. (HOLLAND AMERICAN LINE), NEW YORK, N. Y.

Overassessment, 1916, 1917, 1919..... \$392, 629. 83

Of the overassessment, \$98,133.35 results from the determination of the profits-tax liability under the provisions of sections 327 and 328, revenue act of 1918, by reason of the fact that the taxpayer is a foreign corporation.

The balance of the overassessment in the amount of \$294,496.48 is caused by a redetermination of the total net income received from all sources within the United States upon an apportionment of revenue instead of upon the extent to which income was derived from freight and passenger traffic originating within the United States which previously formed the basis for the assessment of tax liability. (Secs. 217 and 233, revenue act of 1918; T. D. 3387 (C. B. I-2, 153); T. D. 4201 (C. B. VII-2, 133).)

NEW YORK LIFE INSURANCE CO., NEW YORK, N. Y.

Overassessment, 1923..... \$1, 057, 720. 63

The overassessment to the extent of \$1,017,405.56 results from the allowance of a deduction from the gross income reported of 4 per cent of the mean of reserve funds required by law and held during the taxable year unabated by interest received exempt from taxation, in accordance with the decision of the United States Supreme Court in the case of the National Life Insurance Co. v. United States (277 U. S. 508).

The balance of the overassessment, amounting to \$40,315.07, represents the remission of interest assessed on a previously determined deficiency in tax, since the present overassessment causes the elimination of the interest.

OCEANIC STEAM NAVIGATION CO. (LTD.), NEW YORK, N. Y.

Overassessment, 1919, 1921..... \$158, 484. 67

Of the overassessment, \$147,899.18 results from the determination of the profits tax liabilities under the provisions of sections 327 and 328, revenue acts of 1918 and 1921, by reason of the fact that the taxpayer is a foreign corporation.

The balance of the overassessment in the amount of \$10,585.49 is caused by reallocations of the deductions for the depreciation and the repair of vessels used in the transportation business partly within and partly without the United States. (Secs. 217 and 233, revenue acts of 1918 and 1921; T. D. 3387 (C. B. I-2, 153); T. D. 4201 (C. B. VII-2, 133); I. T. 1570 (C. B. II-1, 127).)

OLIVER IRON & STEEL CO. AND SUBSIDIARY, PITTSBURGH, PA.

Overassessment, 1917 to 1920, inclusive..... \$452, 430. 81

The amounts of \$110,898.72 and \$180,028.70 included in the overassessment are caused by the allowance of additional deductions for depreciation and depletion, respectively. (Secs. 12 (a) (2), revenue act of 1916, and 234 (a) (7) and (9), revenue act of 1918.)

Of the overassessment, \$114,632.97 is due to increases in invested capital by the restoration thereto of the cost of capital assets erroneously charged off, inclusion of actual cost of certain capital assets which were not properly reflected, inclusion of the correct amount of earned surplus, and the elimination of a deduction on account of inadmissible assets.

The balance of the overassessment is due to the allowance of an additional deduction for losses sustained upon assets permanently abandoned from use, \$46,665.39; and exclusion from the reported gross income of certain tax-exempt interest erroneously included therein, \$205.03.

PACIFIC COAST BISCUIT CO., SEATTLE, WASH.

Overassessment, 1917, 1918..... \$88,513.21

The entire overassessment represents duplicate payments of deficiencies in taxes and interest.

PHILADELPHIA CO. AND SUBSIDIARIES, PITTSBURGH, PA.

Overassessment, 1917 to 1923, inclusive..... \$2,562,798.20

Of the overassessment, \$1,551,985.64 and \$300,033.68 is caused by the allowance of additional deductions for depreciation and depletion, respectively, since it is determined the amounts deducted in the returns filed were nominal and materially less than the reasonable allowances to which the taxpayer is entitled under the provisions of sections 12 (a) (2), revenue act of 1916, and 234 (a) (7) and (9), revenue acts of 1918 and 1921.

Other causes comprising the balance of the overassessment are abandonment of certain assets, \$81,431.28; net loss sustained, \$183,764.89; rentals paid but omitted from returns filed, \$146,120.58; maintenance expenses and interest, \$92,435.09; ordinary and necessary business expenses, \$31,473.67; State taxes, \$3,521.50; affiliation, \$123,719.27; elimination of amounts of profit derived from the sale of taxpayer's treasury stock, \$1,110.92; inventory adjustment, \$576.45; amortization of bond discount, \$239.18; reallocation of incomes, \$16,190.54; exclusion of amounts representing contributions from consumers and subscribers erroneously included in the report of consolidated income, \$30,195.51.

PHILADELPHIA RAPID TRANSIT CO., PHILADELPHIA, PA.

Overassessment, 1920, 1921..... \$1,721,134.40

The principal cause of overassessment amounting to \$1,395,355.10 is caused by the elimination from the reported consolidated incomes of incomes of several subsidiary corporations included therein and the computation of a tax liability upon a separate basis, since it has been determined that such corporations were not affiliated with the taxpayer by reason of the fact that substantially all of their capital stock was not owned or controlled by the taxpayer, or by another corporation of the affiliated group. (Sec. 240, revenue acts of 1918 and 1921.)

Of the above overassessment, \$200,709.64 results from the allowance of additional deductions for ordinary and necessary business expenses. (Sec. 234 (a) (1), revenue acts of 1918 and 1921.)

The balance of the overassessment, amounting to \$125,069.66, is due to the allowance of additional deductions for depreciation. (Sec. 234 (a) (7), revenue act of 1918.)

THE PITTSBURGH & WEST VIRGINIA RAILWAY CO., PITTSBURGH, PA.

Overassessment, 1921, 1922, 1924, 1925..... \$160,511.52

Of the overassessment, \$59,730.45 is caused by the exclusion from income of amounts representing compensation for use of the taxpayer's properties, pursuant to the provisions of the Federal control act of March 21, 1918.

The amount of \$45,346.65 is caused by the allowance of additional deductions for depreciation since it was determined that the deductions claimed in the tax returns are inadequate. (Sec. 234 (a) (7), revenue acts of 1921 and 1926.)

The amount of \$53,021.59 of the overassessment was made pursuant to the final orders of the United States Board of Tax Appeals entered in the instant case, Docket Nos. 28657 and 40394.

The balance of the overassessment of \$2,412.83 results from a recomputation of the deductions for amortization of bond discount. (Sec. 234 (a) (2), revenue acts of 1921 and 1926.)

PRAIRIE OIL & GAS CO., INDEPENDENCE, KANS.

Overassessments (3 cases):

1922.....	\$103,663.85
1925.....	163,975.68
1926.....	278,297.07

Of the above overassessments, \$516,753.18 is caused by the allowance of an additional deduction for depletion since it was determined that the deductions claimed in the returns filed were inadequate and less than the reasonable allowance authorized by sections 204 (c) and 234 (a) (8), revenue act of 1926.

The balance of the overassessments results from an inventory adjustment under the provisions of section 205, revenue act of 1926, and an overstatement of the reported gross income by the inclusion therein of an excessive amount received from a joint venture in the amounts of \$29,106.48 and \$76.94, respectively.

**PUBLIC SERVICE CORPORATION OF NEW JERSEY AND SUBSIDIARIES,
NEWARK, N. J.**

Overassessment (2 cases):

1918 to 1922, inclusive.....	\$2,283,679.34
1925, 1926.....	141,177.35

The principal cause of overassessments, amounting to \$1,878,097.61, is made pursuant to the final orders of the United States Board of Tax Appeals entered in the instant case, Docket Nos. 18773 and 24195.

The amount of \$94,402.92 is due to the allowance of additional deductions for depreciation of plant and equipment. (Sec. 234 (a) (7), revenue act of 1921.)

Of the overassessments, \$120,656.33 is caused by the allowance of additional deductions for ordinary and necessary business expenses and expenses incurred in connection with the issue of bonds. (Sec. 234 (a) (1), revenue act of 1926.)

The balance of the overassessments is due to the elimination of certain intercompany revenue erroneously included in the consolidated income; the remission of interest asserted in connection with the assessment of a deficiency, and to the decrease in gross income reported by an amount which was received from a capital transaction and therefore nontaxable income.

REA, MRS. EDITH OLIVER, PITTSBURGH, PA.

Overassessment, 1920 to 1923, inclusive..... \$75,730.58

Of the overassessment, \$60,790.64 is caused by the allowance of additional deductions for depletion. (Sec. 214 (a) (10), revenue acts of 1918 and 1921.)

The balance of the overassessment is caused by the allowance of additional deductions for charitable contributions under the provisions of section 214 (a) (11), revenue act of 1921, and the remission of interest assessed on deficiencies in the amounts of \$2,901.85 and \$12,038.09, respectively.

READING CO., PHILADELPHIA, PA.

Overassessment, 1918, 1919..... \$228,325.14

The amount of \$96,293.02 of the overassessment is caused by the allowance of additional deductions for depletion and depreciation. (Sec. 234 (a) (7) and (9), revenue act of 1918.)

Other causes of overassessments and amounts attributable to each are as follows: Allowance of additional deductions for ordinary and necessary business expenses and elimination of certain rental income erroneously reported, \$31,829.08; elimination of incomes of subsidiary corporations included in the consolidated returns filed, \$34,799.91; adjustments to income and expense accounts to correct accruals for interest and discount on securities, \$17,430.44; taxes, \$12,360.60; inventory adjustment, \$7,760.69; exclusion from taxable income of contributions received for the construction of spur tracks, \$2,448.23; guaranty period settlement, \$25,403.17.

The amount of \$125,598.52 of the overassessment is withheld for adjustment in connection with proposed deficiencies for other years.

ROCKEFELLER, JOHN D., NEW YORK, N. Y.

Overassessment, 1917..... \$356,378.34

The amount of \$356,283.90 of the overassessment results from the reallocation of dividends received during 1917 and the determination of the tax liability with respect thereto at the rates prescribed by law for the years in which the profits or surplus from which the dividends were paid are found to have been accumulated by the distributing corporations. (Sec. 31 (b), added to the revenue act of 1916 by sec. 1211 of the revenue act of 1917; *Mason v. Routsahn* (275 U. S. 175), T. D. 4131.)

The balance of the overassessment in the amount of \$94.44 is caused by the allowance of an additional deduction for depreciation of rental properties. (Sec. 5 (a) (7), revenue act of 1916.)

ROSENBLUM, SOL, ESTATE OF, PITTSBURGH, PA.

Overassessment, 1917, 1920 to 1922, inclusive..... \$331,495.64

The principal cause of overassessment in the amount of \$227,828.36 is due to the allowance of additional deductions for ordinary and necessary business expenses. (Sec. 5, revenue act of 1916, and sec. 214 (a) (1), revenue acts of 1918 and 1921.)

Of the overassessment, \$53,063.36 is caused by adjustments to inventories under the provisions of sections 202, revenue acts of 1918 and 1921; \$37,701.06 to the allowance of a deduction for a loss sustained on the sale of certain assets; \$8,634.90 to book adjustments necessary in order to restate the taxpayer's net income from joint ventures; \$5,267.96 to the allowance of a deduction for a contribution under the provisions of sections 1212 (a) and 214 (a) (11), revenue act of 1921.

J. SAMUELS & BRO. (INC.), AND SUBSIDIARIES, PROVIDENCE, R. I.

Overassessment, 1918, 1920, 1921..... \$152,960.48

The principal cause of overassessment in the amount of \$146,398.93 results from a redetermination of the profits-tax liabilities under the provisions of sections 327 and 328, revenue acts of 1918 and 1921, due to the existence of abnormal conditions affecting statutory invested capitals.

The balance of the overassessment for J. Samuels & Bro. (Inc.), is due to an inventory adjustment under the provisions of section 203, revenue act of 1921, and to the remission of interest assessed on a deficiency in tax in the amounts of \$6,155.57 and \$272.85, respectively.

An overassessment in the amount of \$3,505.13 for the Samuels Land Co., a subsidiary, is due to change from a calendar-year basis to a fiscal year basis in reporting income. Of this amount, however, \$3,372 is barred by the statute of limitations.

THE SINGER MANUFACTURING CO. AND SUBSIDIARIES, ELIZABETH, N. J.

Overassessment, 1925..... \$194,022.85

The entire overassessment is caused by the allowance of an increased credit for foreign taxes paid under the provisions of section 238, revenue act of 1926.

STANDARD SANITARY MANUFACTURING CO., PITTSBURGH, PA.

Overassessment, 1922, 1924, 1925..... \$137,712.08

Of the overassessment, \$134,114.02 is due to the allowances of increased credits for foreign taxes paid. (Sec. 238 of the revenue acts of 1924 and 1926.)

The balance of the overassessment in the amounts of \$2,054.99 and \$1,543.07 is caused by the allowance of a deduction for a certain amount of compensation paid to employees which was omitted as a deduction in the return filed and to an increased allowance for depreciation.

ST. LOUIS-SAN FRANCISCO RAILWAY Co., ST. LOUIS, Mo.

Overassessment, 1921, 1922----- \$317, 869. 20

The principal cause of overassessment in the amount of \$262,447.01 is due to a reallocation of income in order that it may be reflected in the taxable net income of the years in which it actually accrued. (Secs. 212, 213, 232, and 233, revenue act of 1921.)

Other causes of overassessment and amounts attributable to each are loss of useful value, \$37,879.21; amortization of bond discount and expense, \$9,277.02; depreciation, \$1,386.49; depletion, \$1,073.93; and bad debts, \$5,805.54.

STOOMVAART-MATTSCHAPPIJ ROTTERDAMSCH E LLOYD, ROTTERDAM, HOLLAND

Overassessment, 1917----- \$85, 798. 71

The entire overassessment is caused by a redetermination of the total net income received from all sources within the United States upon an apportionment of revenues instead of upon the extent to which the incomes were derived from freight and passenger-traffic business originating within the United States which previously formed the basis of the assessment of the taxes. (Sec. 10, revenue act of 1916, as amended by sec. 1206, revenue act of 1917; T. D. 3387 (C. B. I-2, 153); T. D. 4201 (C. B. VII-2, 133).)

STOUT, FRANK D., ESTATE OF, CHICAGO, ILL.

Overassessment, 1925----- \$131, 137. 75

The above overassessment results from a loss sustained upon certain shares of capital stock of a domestic corporation which became worthless during the taxable year. (Sec. 241 (a) (5), revenue act of 1926.)

STREET & SMITH (INC.), NEW YORK, N. Y.

Overassessment, 1918, 1922, to 1924, inclusive----- \$96, 885. 27

The principal cause of overassessment in the amount of \$74,678.46 is due to the redetermination of the profits tax liability under the provisions of sections 327 and 328, revenue act of 1918, due to the existence of abnormal conditions affecting the statutory invested capital to the extent that if the profits tax was computed without the benefit of such sections it would work upon the taxpayer an exceptional hardship evidenced by gross disproportion between the tax computed without the benefit of section 327 and the tax computed by reference to the representative corporations specified in section 328.

The amount of \$18,602.44 is caused by the allowance of deductions for accrued taxes. (Sec. 234 (a) (3), revenue acts of 1921 and 1924.)

The balance of the overassessment in the amount of \$3,604.37 is caused by the remission of interest assessed on deficiencies.

THETA OIL Co., CHICAGO, ILL.

Overassessment, 1918..... \$201,096.86

Of the overassessment, \$70,174.66 is due to the allowance of additional deduction for depreciation. (Sec. 234 (a) (7), revenue act of 1918.)

The balance of the overassessment amounting to \$130,922.20 results from the allowance of special assessment under the provisions of sections 327 and 328, revenue act of 1918.

THOMPSON, MARY CLARK, ESTATE OF, NEW YORK, N. Y.

Overassessment, 1923..... \$169,770.74

The overassessment of estate tax is made pursuant to the final order of the United States Board of Tax Appeals entered in the instant case, Docket No. 20740.

THE TORRINGTON CO. OF CONNECTICUT, TORRINGTON, CONN.

Overassessment, 1920..... \$96,820.43

The entire overassessment results from the determination of the tax liability of the taxpayer and its subsidiaries and a certain other corporation which owned substantially all of its capital stock on the basis of the consolidated net income and invested capital for the above fiscal year, instead of on a fiscal year ended June 30, upon which basis the taxpayer filed its returns, in order to conform with the method of accounting employed by the parent corporation in keeping its books of accounts. (Sec. 240, revenue act of 1918; arts. 633 (as amended by T. D. 4100, C. B. VI-2, 254) and 638, Regulations 45.)

THE TRAVELERS INSURANCE CO., HARTFORD, CONN.

Overassessment, 1923..... \$157,146.74

Of the overassessment, \$119,431.52 results from the allowance of an additional deduction from gross income of interest received from obligations of the United States which is exempt from tax. (Sec. 245 (a) (1), revenue act of 1921.)

The balance of the overassessment, in the amount of \$37,715.22, is caused by the allowance of a deduction of 4 per cent of the mean of reserve funds required by law and held during the taxable year unabated by interest received from tax-exempt securities. (National Life Insurance Co. v. United States (277 U. S. 508); sec. 245 (a) (2), revenue act of 1921.)

UNION COTTON MANUFACTURING CO., FALL RIVER, MASS.

Overassessment, 1920, 1922..... \$227,535.98

The principal cause of overassessment in the amount of \$227,402.39 is due to an inventory adjustment under the provisions of sections 203, revenue acts of 1918 and 1921.

The balance of the overassessment in the amount of \$133.59 results from the allowance of a deduction for a loss sustained on the final distribution of a capital asset. (Sec. 234 (a) (4), revenue act of 1921.)

UNION TRACTION CO., PHILADELPHIA, PA.

Overassessment, 1922 to 1926, inclusive..... \$883, 037. 88

Of the overassessment, \$733,601.40 is caused by the allowance of deductions for interest on certain indebtedness. (Sec. 234 (a) (2), revenue acts 1921, 1924, and 1926.)

The balance of the overassessment, amounting to \$149,436.48, results from the elimination from gross income of certain amounts reported as rentals received, but was determined to be the income of another taxpayer and to have been erroneously reported as the income of this taxpayer. (Sec. 233 (a), revenue acts of 1921, 1924, and 1926.)

UNION TWIST DRILL CO., ATHOL, MASS.

Overassessment, 1918, 1919, 1920, and 1925..... \$199, 593. 98

The principal cause of overassessment in the amount of \$180,872.66 is due to an inventory adjustment under the provisions of section 203, revenue act of 1918.

Other causes comprising the balance of the overassessment are increased allowance for depreciation, \$12,125.25; revision of war-profits credit due to the recomputation of the pre-war invested capital upon the same basis as that used in the computation of the invested capital for the taxable year, \$3,562.16; losses incurred due to abandonment of certain assets, \$425.84; net loss sustained, \$322.61; miscellaneous minor adjustments, \$2,285.46.

UNITED FRUIT CO., BOSTON, MASS.

Overassessment, 1920..... \$92, 443. 66

The entire overassessment results from the elimination of an amount representing the overstatement of the increase in book value of open accounts with certain foreign corporations, since it was determined that such amount was erroneously included in the net taxable income as adjusted in a prior audit of the case. (Appeals of Theodore Tiedemann & Sons (Inc.), 1 B. T. A. 1077, and Louis Roessel & Co. (Ltd.), 2 B. T. A. 1141.)

UNITED FUEL GAS CO. INC., CHARLESTON, W. VA.

Overassessment, 1918, 1919, 1920..... \$809, 252. 45

The principal cause of the above overassessment in the amount of \$572,181.12 results from the redetermination of the profits tax liability under the provisions of sections 327 and 328, revenue act of 1918.

The amounts of \$209,475.17 and \$317.64 included in the overassessment are due to the allowance of additional deductions for amortization of certain leaseholds, and the amortization of bond discount. (Secs. 233 (a) and 234 (a) (1), revenue act of 1918.)

The amount of \$27,278.52 represents an excess interest collection.

UNITED PUBLISHERS CORPORATION, NEW YORK, N. Y.

Overassessment, 1921..... \$92, 115. 56

The entire overassessment represents taxes paid in a greater amount than that assessed and which excessive payments are determined to have been erroneously made.

UNITED STATES INDUSTRIAL ALCOHOL CO., NEW YORK, N. Y.

Overassessment, 1924 to 1926, inclusive..... \$151, 187. 40

Of the overassessment, \$103,216.95 is caused by the allowance of additional deductions for depreciation under the provisions of sections 234 (a) (7), revenue acts of 1924 and 1926.

The balance of the overassessment in the amounts of \$45,781.88 and \$2,188.57 is caused by the allowance of additional deductions for operating expenses and loss sustained from the disposition of the shares of the capital stock of a nonaffiliated domestic corporation.

UNITED STATES STEEL CORPORATION, NEW YORK, N. Y.

Overassessment, 1918, 1919, 1920..... \$21, 098, 382. 14

The principal cause of overassessment in the amount of \$10,494,-697.84 is due to the allowance of additional deductions for amortization of the cost of facilities constructed, erected, installed, or acquired on or after April 6, 1917, for the production of articles contributing to the prosecution of the World War, since it was ascertained that the deductions previously allowed in prior tentative determinations of the tax liabilities were inadequate and less than the reasonable allowances authorized by section 234 (a) (8), revenue act of 1918.

Of the overassessment, \$8,250,687.54 results from a redetermination of the amounts of the consolidated invested capitals, as the valuations of the assets of certain subsidiary corporations were materially understated in prior audits. (Sec. 326 (a), revenue act of 1918; arts. 867, 868, Regulations 45.) -

Other causes of overassessment and amounts attributable to each are as follows: Inventory adjustment, \$322,030.65 (sec. 203, revenue act of 1918); increase in allowance for depreciation, \$132,022.14 (sec. 234 (a) (7), revenue act of 1918); guaranty period settlement, \$323,-272.23, pursuant to Federal control act of March 21, 1918; adjustment of invested capital on account of Federal income and profits taxes due for preceding years, \$1,568,537.44 (sec. 236 (a), revenue act of 1918, and sec. 1207, revenue act of 1926); ordinary and necessary business expenses (sec. 234 (a) (1), revenue act of 1918); elimination of certain amount of profit on the sale of capital assets erroneously included in taxable income (sec. 202 (a) (1), revenue act of 1918); exclusion from income of contributions received for the construction of spur tracks, remission of interest assessed on deficiency, \$7,134.30.

UNITED VERDE COPPER CO., NEW YORK, N. Y.

Overassessment, 1918..... \$608, 285. 61

The amount of \$503,562.88 of the overassessment is due to the allowance of an additional deduction for depletion. Sec. 234 (a) (9), revenue act of 1918; arts. 201 and 561, Regulations 45.)

The remainder of the overassessment amounting to \$104,722.73 is due to the allowance of additional deductions for ordinary and necessary business expenses, repairs, and State and local taxes. (Sec. 234 (a) (1) and (3), revenue act of 1918.)

UTAH-IDAHO SUGAR CO., SALT LAKE CITY, UTAH

Overassessment, 1917 to 1920, inclusive..... \$161, 100. 72

The principal cause of overassessment in the amount of \$134,499.15 is caused by a recomputation of the excess profits tax deduction under the provisions of article 20, Regulations 41, as amended by T. D. 3848 (C. B. V-1, 290).

Of the overassessment, \$9,150.49 is caused by an inventory adjustment correcting an understatement of the opening inventory and an overvaluation of the closing inventory. (Sec. 203, revenue act of 1918.)

Adjustments to invested capital to include therein the actual cash value of certain tangible property at the time paid in is responsible for \$10,044.45.

The balance of the overassessment is due to a recomputation of the taxable gain derived from sales of capital assets and by the correction of an error which had caused a duplicate accrual of liberty bond interest in the amounts of \$4,759.11 and \$2,647.52, respectively.

VACCARO BROS. & CO., NEW ORLEANS, LA.

Overassessment, 1917, 1919..... \$429, 222. 74

The entire overassessment results from redeterminations of the profits tax liabilities under the provisions of sections 210, revenue act of 1917, and 327 and 328, revenue act of 1918, because of abnormalities affecting the capitals whereby the values of certain assets used in the business may not be included in the statutory invested capitals which work upon the taxpayer an exceptional hardship evidenced by gross disproportion between the taxes computed by reference to the representative corporations engaged in like or similar trades or businesses. (Clarence Whitman & Sons (Inc.) v. Commissioner, 11 B. T. A. 1192.)

VANDERBILT, WILLIAM K., ESTATE OF, NEW YORK, N. Y.

Overassessment, 1920..... \$243, 651. 31

The entire overassessment is due to an elimination of amounts erroneously reported as income in the return filed for the decedent. It was determined that the reported income was not computed in accordance with the method of accounting regularly employed in keeping the books of the taxpayer as required by the provisions of section 212 (b), revenue act of 1918, and the regulations promulgated thereunder.

WESTERN MARYLAND RAILWAY CO., BALTIMORE, MD.

Overassessment, 1924, 1925..... \$116, 949. 40

The amount of \$110,993.65 of the overassessment is due to a reallocation of income in order that it may be reflected in the taxable net income of the years in which actually accrued consistent with the

taxpayer's method of accounting. (Secs. 212, 213, 232, and 233, revenue acts of 1924 and 1926.)

The balance of the overassessment is due to amortization of bond discount, \$3,502.39 (sec. 234 (a) (2), revenue acts of 1924 and 1926); the correction of errors resulting from the adjustment of accruals for Federal income taxes on tax-free covenant bonds, \$2,260.21, and minor adjustments of income and deductions, \$193.15.

The amount of \$66,221.59 is withheld for adjustment in connection with proposed deficiencies.

WHITNEY, PAYNE, ESTATE OF, NEW YORK, N. Y.

Overassessment, 1927----- \$16,966,258.61

Of this amount, \$16,329,217.26 is abated as a result of allowance of 80 per cent credit for State taxes paid and which were erroneously assessed as a part of the Federal tax.

The amount of \$585,015.08 results from the allowance of an additional deduction on account of certain transfers for charitable purposes. (Sec. 303 (a) (3), revenue act of 1926.)

The balance of the overassessment in the amount of \$52,026.27 is due to the remission of interest assessed on a deficiency.

THE WILLYS-OVERLAND CO. AND SUBSIDIARIES, TOLEDO, OHIO

Overassessment (2 cases):

1927-----	\$677,567.43
1928-----	225,000.00

The principal cause of overassessment in the amount of \$619,425.37 is due to the allowance of a loss sustained upon the final disposition of the shares of the capital stock of a domestic corporation, erroneously omitted from the return filed. (Sec. 234 (a) (4), revenue act of 1926.)

The amount of \$58,142.06 of the overassessment results from the allocation of the amount of the tax assessed on the original consolidated return, between the parent and the subsidiary corporations on the basis of the net income properly assignable to each. (Sec. 240 (b), revenue act of 1926.)

The overpayment for the year 1928 in the amount of \$225,000 results from the collection of an installment of tax indicated on a tentative return which is in excess of the amount determined to be the correct amount of such installment. (Sec. 321, revenue act of 1928.)

WOODWARD IRON CO., WOODWARD, ALA.

Overassessment, 1915 to 1918, inclusive, and 1924----- \$879,494.66

Of the overassessment, \$216,850.67 and \$65,508.54 are caused by additional allowances for depreciation and depletion, respectively. (Secs. II-G (b), revenue act of 1913, 12 (a) (2), revenue act of 1916, and 234 (a) (7) (9) revenue acts of 1918, and 1924.)

The allowance of increased deductions for amortization of war facilities under the provisions of section 234 (a) (8), revenue act of 1918, and 1209, revenue act of 1926, is responsible for \$202,241.34 of the overassessment.

Other causes of overassessment and amounts attributable to each are as follows: Loss of useful value, \$28,736.99 (sec. 234 (a) (4), revenue act of 1918); net operating loss, under the provisions of section 204, revenue act of 1918, \$330,532.16; remission of interest assessed on deficiency, \$2,354.20; miscellaneous deductions including repairs, bond discount, taxes and adjustments to reserve accounts, \$33,270.76.

The amount of \$126,594.10 is withheld for adjustment in connection with proposed deficiencies for the years 1920, 1923, and 1927.

WOOLWORTH, FRED M., ESTATE OF, NEW YORK, N. Y.

Overassessment, 1923..... \$115,465.91

The entire overassessment of estate tax results from the elimination of the value of certain property erroneously added to the reported value of the estate in a prior audit, which formed the basis for an assessment of a deficiency in tax, since it was determined that such property was transferred by a gift and not made in contemplation of or intended to take effect in possession or enjoyment at or after the decedent's death. (Sec. 402 (c), revenue act of 1921.)

WOOLWORTH, F. W., Co., NEW YORK, N. Y.

Overassessment (2 cases):

1917 to 1921, inclusive.....	\$1,182,528.11
1922 to 1926, inclusive.....	1,385,573.88

Of the overassessments, \$1,414,479.69 is due to the allowance of increased credits against the adjusted tax liabilities for the amounts of taxes paid foreign countries. (Sec. 238 (a) and (e), revenue acts of 1921, 1924, and 1926.)

The amount of \$753,145.18 is caused by inventory adjustments correcting understatements of opening inventories and overvaluation of closing inventories. (Sec. 230, revenue act of 1918.)

Other causes of overassessments and amounts attributable to each are as follows: Allowance of additional deductions for amortization of the valuations of certain leaseholds, \$90,100.58 (sec. 234 (a) (1), revenue act of 1921); increase in allowance for depreciation, \$213,757.38 (sec. 234 (a) (7), revenue act of 1921); overstatement of the amount of dividends received from foreign sources, \$69,270.25 (sec. 233 (a) revenue act of 1921); restorations to invested capitals, \$20,054.04 (sec. 326 (a), revenue act of 1918, and sec. 1207, revenue act of 1926); remission of interest assessed on deficiency, \$5,171.64; elimination from gross income reported of profit derived from the sale of taxpayer's capital stock, erroneously included therein, \$2,034.42 (sec. 233 (a), revenue act of 1921); interest paid, \$88.81 (sec. 234 (a) (2), revenue act of 1921).

WYOMING ASSOCIATED OIL CORPORATION, DENVER, COLO.

Overassessment, 1919, 1921, 1922, 1923..... \$75,466.08

The entire overpayment represents an amount erroneously remitted to the collector in excess of the assessed deficiencies in tax and interest thereon for the above years.

SUPPLEMENT TO PART II

ANALYSIS OF OVERASSESSMENTS PREPARED BY THE TREASURY
DEPARTMENT

NOVEMBER 5, 1931.

Hon. WILLIS C. HAWLEY,

*Chairman Joint Committee on Internal Revenue Taxation,
House of Representatives.*

MY DEAR MR. CHAIRMAN: There is transmitted herewith an analysis prepared by the Treasury Department of the overassessments reported to the joint committee during the period from February 1, 1930, through December 31, 1930, and of other overassessments exceeding \$10,000 that were reviewed in the office of the General Counsel of the Bureau of Internal Revenue during the same period.

The present analysis should prove useful as a supplement to the two prior analyses prepared by the Treasury Department which were printed in connection with the two reports of the joint committee on refunds and credits of internal-revenue taxes for the period from June 1, 1928, through December 31, 1928, and for the calendar year 1929, respectively. It is suggested that the present analysis be printed in connection with the report of the joint committee on refunds and credits for the calendar year 1930.

As stated in the two prior analyses, it is generally recognized that refunds and credits are obviously a necessary incident to the administration of our tax laws. It is hoped that this continuation of the analysis of the specific reasons for overassessments may be of assistance in the framing and enactment of subsequent revenue laws.

It is particularly interesting to note that 80.35 per cent of the overassessments of income taxes and 97.12 per cent of the overassessments of estate taxes covered by the present analysis are due to clerical or bookkeeping adjustments or to other causes beyond the control of either the Treasury or the taxpayer, the effect of which could not be determined prior to the time the taxes in question were paid. Such causes are tabulated as follows:

Income taxes:	Per cent
Court and board decisions.....	19. 19
Duplicate and arbitrary or jeopardy assessments.....	12. 15
Depreciation and depletion allowances.....	8. 01
Inventory changes.....	3. 52
Shifts of income.....	6. 15
Allowance of special assessment.....	4. 99
Amortization and loss adjustments.....	13. 21
Invested capital and affiliation changes.....	12. 61
Specific legislation.....	. 52
Total.....	<u>80. 35</u>
Estate taxes:	
Court and board decisions.....	1. 30
Credit for State death duties.....	93. 80
Executors' fees, expenses, etc., paid subsequent to filing of return...	1. 37
Duplicate assessments.....	. 65
Total.....	<u>97. 12</u>

Very truly yours,

B. H. BARTHLOW,
Special Assistant to the Secretary of the Treasury.

In connection with the report of the Joint Committee on Internal Revenue Taxation, under section 710 of the revenue act of 1928, dated June 19, 1929, House Document No. 43, Seventy-first Congress, first session, there was included an analysis of overassessments prepared by the Treasury Department. This analysis covered overassessments reported to the joint committee during the period from February 28, 1927, through January 18, 1929. A further analysis of overassessments, prepared by the Treasury Department was printed in connection with the report of the joint committee under section 710, dated June 20, 1930, House Document No. 478, Seventy-first Congress, second session. This further analysis covered overassessments reported to the joint committee during the period from January 19, 1929, through January 31, 1930, and other overassessments in excess of \$20,000 reviewed in the office of the General Counsel of the Bureau of Internal Revenue during the period from March 14, 1929, through January 31, 1930. Both of the analyses referred to contained a general discussion of abatements, credits, and refunds, which discussion is also applicable to the present analysis.

The first report of the joint committee covered overassessments reported to it under the first deficiency act of February 28, 1927, during the period from the date of that act through April 24, 1928, and those reported under section 710 of the 1928 act during the period from May 29, 1928, through December 31, 1928, while the second report of the joint committee covered the overassessments reported to it during the calendar year 1929.

The Treasury Department has now prepared an analysis of overassessments reviewed by the office of the General Counsel during the period from February 1, 1930, through December 31, 1930. This analysis includes the cases reported to the joint committee during that period, and in addition it includes other overassessments in excess of \$20,000 reviewed in the office of the General Counsel of the Bureau of Internal Revenue during the same period and overassessments in excess of \$10,000 reviewed in that office during the period from July 15, 1930, through December 31, 1930. (On March 14, 1929, an Executive order and T. D. 4264 were issued providing for a public decision in every case of an overassessment (including abatements and credits, as well as refunds) of income, estate, or gift taxes in excess of \$20,000, and pursuant to an order of the Commissioner of Internal Revenue on July 1, 1930, effective July 15, 1930, all overassessments in excess of \$10,000 of income and profits taxes not due to court decisions have since the latter date been reviewed in the office of the General Counsel prior to their allowance.)

In general, the present method of analysis of overassessments follows that used in two prior analyses, and it is therefore not deemed necessary to repeat here the explanations already submitted. Due to the inclusion in the present analysis of the additional class of overassessments, the scope of the analysis is broader than those previously prepared. Owing to the dissimilarity of causes operating to produce the overassessments in income-tax cases and in estate-tax cases, the separation observed in the prior analyses has been retained in the present analysis.

PART I.—INCOME TAX CASES

The number of cases involving overassessments covered by this analysis is 965. The total original taxes assessed in these cases amounted to \$632,420,101.19, the total additional taxes assessed amounted to \$102,454,050.43 the total overassessments previously allowed amounted to \$37,184,737.43, and the total overassessments herein analyzed amount to \$103,944,925.26. The overassessments made the subject of this analysis involving the profits-tax years 1917-1921, inclusive, aggregate \$78,853,635.79, of which \$27,611,780.09 represent refunds, \$28,645,966.33 represent credits to other years, and \$22,595,889.37 represent unpaid taxes abated. The sum of \$78,853,635.79 is about 75.86 per cent of the total amount of the overassessments covered by this analysis. It will be noted that the amount of overassessments coming out of the original assessments was \$38,165,180.99, or about 5.19 per cent of the total original taxes assessed. In this connection it should be borne in mind that these overassessment cases primarily involve errors the correction of which works to the benefit of taxpayers, and do not include that large number of cases, involving no substantial overassessments, where additional taxes are collected.

The settlement of war taxes of the United States Steel Corporation for the three years 1918, 1919, and 1920 accounts for \$21,096,879.11 of the above figure of \$78,853,635.79. The position of that taxpayer, arising from its size and the war conditions, justifies its separation from the other cases when comparisons are made with the statistics of other years.

A summary of the result obtained by this analysis with respect to the income, war profits, and excess-profits taxes (including those of the United States Steel Corporation) is as follows:

Analysis of overassessments of income-tax cases

Classification	Refund	Credit	Abatement	Total	Per cent
Court decisions.....	\$13, 556, 368. 60	\$422, 492. 45	\$2, 267, 543. 91	\$16, 246, 404. 96	15. 63
Board decisions.....	1, 570, 089. 71	629, 303. 94	1, 496, 867. 91	3, 696, 261. 56	3. 56
Specific legislation.....	415, 030. 01	87, 157. 84	40, 509. 51	542, 697. 36	. 52
Special assessment.....	2, 797, 186. 61	1, 763, 262. 89	621, 894. 14	5, 182, 344. 64	4. 99
Duplicate assessment.....	1, 516, 444. 38	10, 041. 81	256, 928. 45	1, 783, 414. 64	1. 71
Depreciation.....	2, 510, 742. 14	1, 617, 028. 13	1, 704, 028. 22	5, 831, 798. 49	5. 61
Depletion.....	1, 535, 212. 80	607, 710. 39	345, 622. 03	2, 488, 545. 22	2. 40
Obsolescence.....	53, 794. 73	28, 554. 52	8, 241. 43	90, 590. 68	. 09
Inventory changes.....	1, 218, 456. 95	1, 490, 570. 16	953, 927. 37	3, 662, 954. 48	3. 52
Affiliation changes.....	335, 201. 18	144, 126. 55	897, 598. 05	1, 376, 925. 78	1. 32
Losses.....	1, 401, 319. 98	473, 243. 05	332, 010. 65	2, 206, 573. 68	2. 12
Invested capital changes.....	2, 790, 252. 30	8, 324, 513. 61	617, 559. 07	11, 732, 324. 98	11. 29
Amortization.....	2, 554, 646. 87	8, 699, 737. 46	273, 764. 08	11, 528, 148. 41	11. 09
Shift of income.....	1, 256, 053. 73	4, 112, 631. 00	1, 025, 694. 80	6, 394, 379. 59	6. 15
Arbitrary assessments.....	372, 117. 73	6, 425. 24	10, 482, 518. 64	10, 861, 061. 61	10. 44
Miscellaneous.....	8, 765, 185. 94	3, 438, 865. 49	8, 116, 447. 75	20, 320, 499. 18	19. 56
Total.....	42, 648, 104. 72	31, 855, 664. 53	29, 441, 156. 01	103, 944, 925. 56	100. 00

PART II.—ESTATE-TAX CASES

This analysis covers only joint committee and other cases of overassessments exceeding \$20,000 reviewed during the period from February 1, 1930, through December 31, 1930, these being the only overassessments of estate taxes reviewed in the office of the General Counsel of the Bureau of Internal Revenue. The number of cases covered by the analysis is 364. The total original taxes assessed in these cases amounted to \$74,311,232.51, the total additional taxes assessed amounted to \$9,432,992.10, and the total overassessments herein analyzed amount to \$49,278,035.88. Of the last item only \$3,200,873.90 was refunded, while \$46,077,161.98 was disposed of through abatements. Most of the abatements represented credits allowed for payment of State inheritance taxes after the Federal estate tax returns were filed and the indicated tax liabilities were assessed. One large overassessment, that of the Payne Whitney estate, accounts for \$16,966,258.61 of the total overassessments, of which only \$637,041.35 was refunded and the balance abated. About 93.8 per cent of the total overassessments were due to credits for State inheritance taxes, made in accordance with section 301 (b) of the revenue acts of 1924 and 1926.

The following summary indicates the principal causes of the overassessments and shows the proportions that were abated and refunded:

Analysis of estate-tax overassessments

Classification	Refund	Abatement	Total	Per cent
Court decisions.....	\$243,426.10	\$2,710.88	\$246,136.98	0.50
Board decisions.....		391,863.04	391,863.04	.80
Credit for State inheritance taxes.....	1,220,384.92	45,004,166.00	46,224,550.92	93.80
Duplicate assessments.....	4,351.97	316,408.85	320,760.82	.65
Executors' fees, miscellaneous administration expenses and claims against the estate.....	600,186.89	73,480.60	673,667.54	1.37
Miscellaneous.....	1,136,875.99	284,180.59	1,421,056.58	2.88
Total.....	3,200,873.90	46,077,161.98	49,278,035.88	100.00



PART III

GENERAL SURVEY OF OVERASSESSMENTS
INCLUDING A
DISCUSSION OF CERTAIN SPECIFIC CASES



GENERAL SURVEY OF OVERASSESSMENTS, INCLUDING A DISCUSSION OF CERTAIN SPECIFIC CASES

The first question which arises in considering the overassessment situation for 1930 in connection with refunds and credits in excess of \$75,000 and the abatements involved in such cases, is: What is the total amount of the overassessments and how does this amount compare with the allowances made in previous years?

There were 125 cases reported to the committee during the period January 1, 1930, to December 31, 1930, inclusive. These cases reflected overassessments with interest in the total amount of \$97,503,653.36. This amount seems at first glance to be exceptionally large. The corresponding allowance for the calendar year 1929 was only \$75,672,888.17. The monthly rate of overassessment for 1930 is, accordingly, 29 per cent greater than that for the year 1929. However, the increase in the total amount of overassessments for 1930 is more apparent than real on account of a large abatement granted to the Payne Whitney estate in an amount in excess of \$16,000,000. This abatement was clearly allowable and occurred because no credit was granted to the estate for taxes due to the several States at the time the Federal estate tax return was made. The executors of the estate were unable to adjust their State taxes when filing the Federal return and the department assessed the entire tax, which was in excess of \$21,000,000, without making any allowance under the 80 per cent credit clause. The tax abated, therefore, represented merely an elimination of an erroneous bookkeeping entry. The final tax collected by the Federal Government amounted to \$4,474,031.

As abatements constitute merely the elimination of erroneous bookkeeping entries, and do not directly affect the revenue, the best indication of the overassessment situation during 1930 is to be found in a comparison of the refund and credit allowances with those of prior years. For the 21-month period ended December 31, 1928, the total amount of refunds and credits was \$145,860,031. This indicated a monthly rate of refundment of \$6,945,717. For the calendar year 1929, the total of refunds and credits allowed was \$54,172,647, resulting in a monthly refundment rate of \$4,514,387. For 1930, the total amount of refunds and credits was \$54,852,131, and the monthly rate of refundment was \$4,571,011. While the rate for 1930 was substantially the same as that for the year 1929, it is disproportionately large on account of a refund and credit to the United States Steel Corporation which represented nearly 40 per cent of all the refunds and credits for the year 1930. If this large adjustment is eliminated from the year 1930, the rate of refundment will be only \$2,812,812 per month. Cash refunds reported in excess of \$75,000 amounted to only \$27,174,872 in 1930 in comparison with cash refunds of \$38,203,522 in 1929, a decrease of approximately 29 per cent. These facts appear to justify the prediction made in our 1929 report that the peak of the high refund years has passed.

For the year 1931, we predict a further diminution in the allowance of refunds and credits. The reason for this is that the adjustments for the excess profits tax years, 1917 to 1921, inclusive, are nearly complete. During these years the rates of tax were very high and any error in income or deduction therefrom makes a tremendous difference. After 1921 the tax rates were much lower and adjustments make less difference in the amount of refund or credit. Moreover, many of the troublesome provisions associated with the excess profits tax were eliminated with its repeal in 1921. The refunds reported to the committee, as well as the records of the department, clearly demonstrate that the excess profits tax cases are almost entirely settled. For the 21-month period ending December 31, 1928, 83 per cent of the adjustments were for those years. In 1930, only 59 per cent of the adjustments related to the excess profits tax years. By 1932, practically all excess profits tax problems will be eliminated except in a few cases which are in litigation.

It is interesting to note that the overassessments reported to the committee during 1930 resulted in reducing the original and additional taxes assessed by 12.20 per cent. A considerable number of the refunds and credits have reduced the original tax voluntarily paid by the taxpayer. Until the passage of the revenue act of 1924 original taxes not paid under protest could not be recovered by suit. This is still the law in State taxation. Congress first permitted the recovery of such taxes by suit in section 1014 of the revenue act of 1924, and made this section retroactive. The reason for allowing the recovery of these original taxes is stated as follows in the Gregg report, 1924 act, and the finance report, 1924 act:

The provisions of section 1318 of the existing law have been amended to provide that after the enactment of the bill it shall not be a condition precedent to the maintenance of a suit to recover taxes, sums, or penalties paid, that such amounts shall have been paid under protest or duress. The fact protest was made has little bearing on the question whether the tax was properly or erroneously assessed. The making of such protest becomes a formality so far as well advised taxpayers are concerned, and the requirement of it may operate to deny the just claim of a taxpayer who was not well informed.

It is certain that many equitable arguments can be advanced in favor of the above provision, but as a practical matter, it should be pointed out that the retroactive character of this provision applying to the high tax years has had an important effect in increasing the refunds.

The second question in connection with the 1930 overassessment situation is: What are the principal causes of these allowances?

The analysis of overassessments in Part II of this report sets forth the principal causes of 1930 overassessments as follows:

	Per cent		Per cent
Estate tax.....	23. 57	Affiliation.....	4. 09
Invested capital.....	15. 19	Reallocation of income.....	3. 03
Amortization.....	14. 23	Inventory adjustments.....	2. 96
Depreciation.....	7. 33	Depletion.....	2. 82
Special assessment.....	4. 45	Foreign taxes.....	2. 59

In connection with the answer to the first question, it was shown how the adjustments in the case of the Payne Whitney estate and in the case of the United States Steel Corporation disproportionately increased the 1930 overassessment figures. These cases likewise affected the percentages set forth above. If the overassessments

allowed in connection with the Payne Whitney estate and the United States Steel Corporation are eliminated, the principal causes of the 1930 overassessments and the ratio to the remaining total will be as follows:

	Per cent		Per cent
Depreciation.....	15. 13	Depletion.....	5. 94
Special assessment.....	9. 40	Foreign taxes.....	5. 48
Affiliation.....	8. 62	Inventory adjustments.....	5. 39
Invested capital.....	6. 39	Estate tax.....	5. 38
Reallocation of income.....	6. 38	Amortization.....	2. 59

This last list is more reliable than the first in predicting the principal causes of overassessments in the future. The special assessment, invested capital, and amortization provisions, which concern the excess profits tax years only, have been eliminated from the revenue acts since 1921. As soon as the cases involving 1921 and prior years are completely settled, it seems safe to assume that depreciation, affiliation, reallocation of income, depletion, foreign tax credits, inventory adjustments, and the estate tax will be the primary causes of overassessment allowances. Moreover, class B affiliations, which present many troublesome questions, were abolished by the revenue act of 1928 with respect to the taxable year 1929 and subsequent taxable years, and the commissioner was given authority to promulgate binding regulations as to consolidated returns. The problems of the consolidated return will accordingly be greatly minimized in the future. The chief problems will doubtless relate to depreciation, depletion, and other adjustments which depend primarily upon judgment, unless some means are found for standardizing these deductions.

The third question which arises is: Are the overassessments allowed by the commissioner in connection with refunds and credits of over \$75,000 justified under the law and fair to both the Government and the taxpayer?

This question must in general be answered in the affirmative. However, it has been inevitable that in disposing of the dregs of the excess-profits tax years some differences in opinion would exist. Serious differences between the Treasury and the staff of this committee have developed in only 9 of the 125 cases examined. These differences arose in connection with the following subjects: Inter-company profits, amortization, invested capital, depreciation, obsolescence, affiliation, depletion, and exhaustion of the basis for depreciation. The nine cases in which the staff disagreed with the conclusions of the Treasury were very carefully reviewed by the department. The Treasury did not take an arbitrary position in these matters, and has cooperated with the staff by considering such cases *de novo* so far as the objections made by the staff were concerned. Two cases were changed in some respects to conform to the conclusions of the staff. Two other cases were held pending further review. Two cases were not changed as to the years under review, but the basis for future years was corrected. Finally, three of the nine cases were not changed in any respect. The changes made by the Treasury to conform to the views of the staff resulted in a net saving to the Government of approximately \$400,000. However, this last amount might be reduced by \$40,000 or \$50,000 if consideration was given to the loss of interest on account of the delay required by the additional review. While this saving is small in comparison with the total

overassessment allowed, amounting to less than one-half of 1 per cent, it is large in comparison with the expenses of examination by the staff which do not exceed 5 per cent of the above-mentioned amount.

The fourth and last question which arises is, What individual cases deserve discussion from a legislative viewpoint?

On the following pages we will discuss certain individual refunds and credits which have been made during the calendar year 1930 so as to bring out those provisions of the law which have been or are obscure and which lead to difficulties of interpretation. It is believed this discussion will be helpful in order that in new legislation similar ambiguity may be avoided. The discussion of individual cases follows.

CASE No. 16 (FEBRUARY)—UNITED STATES STEEL CORPORATION AND SUBSIDIARIES

This case was reported to the joint committee by the commissioner under date of February 12, 1930. The total overassessments shown in the original report covering the taxable years 1918, 1919, and 1920 amounted to \$21,555,357.89 without interest. (Interest originally estimated at \$12,000,000.) The final allowance made after the expiration of the 30-day period prescribed by law was \$21,098,382.14 plus interest of \$11,112,960.90. The reduction in the final allowance over the original amount tentatively proposed amounted to \$456,975.75 plus an undetermined amount of interest. This reduction was due to two causes; first, final computations of the audit division of the bureau; and second, a correction in the amortization allowance made by the department on the basis of an objection raised by the staff of the joint committee.

This overassessment with interest (\$32,668,318.79) is the largest single case which has ever been reported to the committee. The second largest case reported to the committee involved an overassessment to the same taxpayer for the year 1917 which amounted to \$25,856,361.14, including interest. This refund for 1917 was described in our first report on refunds and credits. It should also be observed, however, that the United States Steel Corporation is by far the largest taxpayer in the United States. The final taxes collected from this corporation in comparison with the total corporation tax reported is shown below for the years mentioned.

Year	Total corporation tax reported	Final tax liability United States Steel Corporation	Per cent of total
1917.....	\$2, 142, 445, 769. 00	\$173, 377, 731. 73	8. 1
1918.....	3, 158, 764, 422. 00	251, 292, 190. 49	8. 0
1919.....	2, 175, 341, 578. 00	30, 379, 976. 53	1. 4
1920.....	1, 625, 234, 643. 00	30, 614, 536. 74	1. 9
Total.....	9, 101, 786, 412. 00	485, 664, 435. 49	5. 3

This case was fully discussed before the Joint Committee on Internal Revenue Taxation in executive session on March 11 and 12, 1930. The Treasury Department explained the principal features of the settlement, pointing out the concessions on both sides. The

staff drew to the attention of the committee the three most important of the settlement issues, namely:

1. The rule for computing consolidated invested capital.
2. The amortization allowance.
3. The rule for eliminating intercompany profits from inventory.

The correct rule for computing the consolidated invested capital in these cases has never been finally determined by the courts and the adjustment made represents a settlement. The basis for 1918, 1919, and 1920 is the same as used in 1917, which was described in our first refund report.

Amortization is a fact question and it is not to be denied that the United States Steel Corporation was entitled to a large allowance. The amortization section of the bureau had agreed on an allowance of \$55,063,312.60 in 1924. This allowance was the subject of discussion before the Select Senate Committee Investigating the Bureau of Internal Revenue in 1925. The commissioner thereafter ordered a redetermination of the allowance to be made. The report of the commissioner to the committee in 1930 fixed the allowance at \$48,136,472.98, which represented a reduction of about \$7,000,000 over the allowance first agreed on. Careful investigation of the allowance was made by the staff and objection was made to the determination made in the case of the McDonald plant of the Carnegie Steel Corporation. After discussion, the bureau and the taxpayer agreed that this allowance should be reduced by \$315,322.07. This reduction was in favor of the Government to the extent of about \$250,000 in tax plus interest of about \$125,000, making a total saving of \$375,000.

The issue in respect to the elimination of intercompany profits for both income and excess-profits tax purposes was thoroughly discussed before the committee. The rule followed was based upon bureau rulings. The staff developed arguments attempting to show that these rulings were in error, and a subsequent decision of the United States Court of Claims in April, 1930 (*Packard Motor Car Co. v. U. S.*, 39 Fed. 2d, 991), would indicate that the position of the staff was correct. Certiorari was denied in the Packard Motor Car case, but the issue is still in litigation in other cases.

The United States Steel Corporation case was thoroughly debated on the floor of the House on March 14, March 18, and March 20, 1930, and as this discussion appears in the Congressional Record of these dates, it is unnecessary to discuss the case further in this report.

CASES NOS. 18 AND 19 (FEBRUARY)—F. W. WOOLWORTH CO.

The overassessments allowed to this company were divided into two cases: the first covering the years 1917 to 1921, inclusive; and the second covering the years 1922 to 1926, inclusive. The total overassessment was \$2,568,101.97, but over 80 per cent of this amount was abated or credited, leaving a fairly small cash refund.

The staff raised a question in regard to the allowance of depreciation on assets which it appeared had already been 100 per cent depreciated. In other words, the issue was on the exhaustion of assets. The bureau admitted the case was not properly set up on this point and a complete review was made, the case being withheld from payment for about nine months. Error developed in the period 1917 to 1921 in favor of the taxpayer and in the period 1922 to 1926

in favor of the Government. While no change was ultimately made in the final settlement, the basis for depreciation in future years is reduced which should increase the future taxes to a considerable extent.

CASE NO. 1 (MARCH) AND CASE NO. 3 (NOVEMBER)—CALIFORNIA
& HAWAIIAN SUGAR REFINING CORPORATION

Two overassessments were allowed to this company during the calendar year 1930. One overassessment was for the year 1927 in the amount of \$166,325.68, and the other was for the calendar year 1928 in the amount of \$156,766.62. These amounts represented a refund of all the tax paid by the company. The reason for the refund was due to the fact that the corporation was held to be exempt from the payment of income taxes under the revenue acts. The statutes allow an exemption only where the associations are organized and operated on a cooperative basis for the purpose of marketing the products of members or other producers. The Treasury appeared to base the right to exemption on the theory that the company was operated on a cooperative basis for the purpose described. The staff was of the opinion that effect must be given to the word "organized" as well as the word "operate" and that if the company was not organized upon a cooperative basis it did not come within the exemption. The view advanced by the staff seemed to be supported by a decision of the Supreme Court in *United States v. Field* (255 U. S. 257), in which the court held in reference to an estate tax provision, that if conditions are expressed conjunctively, it would be inadmissible in construing a taxing act to read them as if prescribed disjunctively. The bureau took the position, in substance, that it was not construing the statutes disjunctively but was looking to the acts actually performed by the corporation for its interpretation of the word "organized." Upon finding that the acts performed were of a cooperative character the fact that the charter may have authorized the performance of other acts of a noncooperative character was regarded as immaterial, at least so long as the noncooperative powers remained unexercised.

This case was considered by the joint committee in executive session and was also debated on the floor of the House. (See Congressional Record of June 20, 1930, and June 24, 1930.) Since all the pertinent documents in the case are printed in the Congressional Record, further discussion seems unnecessary here except to point out that a report on tax-exempt corporations is now being prepared by the staff.

CASE NO. 4 (MARCH)—HARRISBURG PIPE & PIPE BENDING CO.

The overassessment in this case amounts to \$383,339.43, and results from the allowance of special assessment under section 210 of the revenue act of 1917 and sections 327 and 328 of the revenue act of 1918, and is for the years 1917, 1918, and 1920. Two allowances under the special assessment provisions had previously been made. These allowances as well as the present allowance are set forth in the following table for the year 1918 only:

Date of allowance:	Amount allowed
May 7, 1926.....	\$239, 489. 10
Apr. 12, 1928.....	241, 111. 81
Mar. 24, 1930.....	254, 135. 52

Special assessment has been held by the Supreme Court to be a discretionary provision which is entirely within the jurisdiction of the commissioner and outside of the jurisdiction of the court. (See *Williamsport Wire Rope Co. v. United States*, 48 S. Ct. 587.) This office is of the opinion that more than one allowance under special assessment to the same company for the same year is objectionable. It would seem the commissioner having exercised his discretion once and relief having been given, that his power to give further relief might well be considered to be exhausted. (See 12 Op. Atty. Gen. 55; *Ridgway v. United States*, 18 Ct. Cls. 707; *Patton v. United States*, 7 Ct. Cls. 362; *Woodworth v. Kales*, 26 Fed. (2d) 178.)

CASE NO. 7 (MARCH)—JOHN D. ROCKEFELLER, NEW YORK, N. Y.

This taxpayer received a refund of \$356,378.34 for the taxable year 1917. The refund is plainly allowable and is inconsequential in proportion to the final tax collected for that year which amounted to the enormous sum of \$14,150,780.93.

In our first report on refunds and credits, an overassessment to this same taxpayer for the year 1922 was noted and a comparison of the net income and tax for this year with 1917 is interesting as indicating the probable ineffectiveness of our Federal and State death taxes.

Comparison of net income and tax

	1917	1922
Final net income.....	\$24,903,530.01	\$77,329.74
Final tax paid.....	14,150,780.93	12,036.03

The principal reason for the refund in this case is the taxation of certain dividends received in the year 1917 at 1916 rates. This is proper under the law as interpreted by court decisions.

CASE NO. 3 (MAY)—DOUGLAS FAIRBANKS

This case is noted because Mr. Fairbanks is a representative of the motion-picture industry, in connection with which there has been considerable comment in respect to earned income.

The overassessment for 1924, 1925, and 1926 is \$109,768.83, but this is more than offset by additional taxes for 1920, 1921, 1922, and 1923, in the amount of \$597,848.15. The net result for the years 1920 to 1926, inclusive, is an additional tax of \$488,079.32.

While it is true that the net income of Mr. Fairbanks is made up in part of dividends and profits from capital investments, it is also true that a very large portion of his income might properly be termed "earned income."

A compilation of the total net income and the total tax paid for the years 1920 to 1926, inclusive, shows that 43 per cent of Mr. Fairbanks' net income in this period has been paid to the Government in tax. In considering the limit which should be placed on the recognition of earned income for earned income tax relief, this case might well be taken into account.

CASE NO. 4 (JUNE) AND CASE NO. 1 (DECEMBER)—CHILE COPPER CO.

There were two overassessments allowed to this company in the year 1930. The first was for the year 1918 in the amount of \$119,-534.84 and the second was for the years 1923 to 1925, inclusive, in the proposed amount of \$218,832.58.

The first of these cases was reported to the committee in 1929 and withheld from payment pending review. The refund was paid in 1930. The second overassessment has not yet been paid as it is also being reviewed.

The principal controversy in this case is over the March 1, 1913, value of the copper ores in the mine of this company located in Chile. This is a fact question in regard to the determination of which the staff of this committee is naturally handicapped. In fact, the bureau engineers are also handicapped in such a case because the valuation is made in Washington from the data and records of the taxpayer without an actual examination of the mines.

A technical discussion of this case is impossible in any reasonable space. It is sufficient to point out that in 1912 this property was acquired at a total cost of less than \$2,000,000 and that for the purposes of depletion in 1918, a valuation of \$224,116,595 was placed on all the ores in the property as of March 1, 1913. For subsequent years, this value was revised and an appraisal made in the amount of \$189,-141,313 as representing the March 1, 1913, value of only part of the ores (the oxide ores). It was not until 1915 that the company began mining copper with a new plant and a new process. Lengthy discussion took place between the bureau and the staff as to the evidence which would support the rise in value of this property from \$2,000,000 in 1912 to around \$224,000,000 on March 1, 1913.

There are two points in this case which appear to have general interest. The final valuation does not take into consideration all of the ore in the mine as of March 1, 1913, but only a part of such ore. At some later date, it is proposed to value the remainder of the ore. The advantage gained by waiting 20 or 30 years from the basic date before making a valuation is not apparent. It seems that March 1, 1913, valuations should be made as promptly as possible for only inaccuracies and errors can be expected from long delays. Moreover, there is some question whether it is proper to value part of a mine separately instead of valuing the mine as a whole. In *Reinecke v. Spalding* (280 U. S. 227), the Supreme Court held that the March 1, 1913, value of the interest of the taxpayer in the particular mines there involved could only be determined by considering the mines as entireties, and not particular parts of ore beds.

The second point to which attention is directed is not a criticism of the refund allowance, but is a point which may develop in connection with tax-free distributions to the stockholders of appreciation accrued prior to March 1, 1913. Up to March 1, 1913, only \$2,000,000 had actually been invested in securing property rights to the mine. At that time, not even a plant was built and operations had, of course, not begun. The Treasury allowed a March 1 value of the mine of \$224,000,000. In other words, appreciation in the value of property up to \$222,000,000 was recognized in the write-up of the value of the property as of March 1, 1913. The March 1, 1913, value was based on an analytical appraisal of the properties by bureau engineers. The

position of the bureau is that this method of valuation was the only fair basis of establishing the value on the basic date, since the bureau did not regard the property as having been acquired in an arm's-length transaction.

There is considerable doubt whether this appreciation which accrued prior to March 1, 1913, may be distributed tax free to the stockholders if such distributions were made prior to the revenue act of 1921. Under the 1913 act, the Supreme Court held in *Lynch v. Hornby* (247 U. S. 339), that earnings or profits or increase in value of property accrued prior to March 1, 1913, were subject to tax in the hands of the stockholders when distributed in the form of an ordinary dividend. Under the 1916 act, Congress specifically exempted from tax, distributions in the form of dividends of earnings accrued prior to March 1, 1913. But this act did not include within the exemption appreciation in the value of property accrued prior to March 1, 1913. The 1917 and the 1918 acts, in this connection, were practically the same as the 1916 act. In the 1921 act, Congress exempted not only earnings or profits accrued prior to March 1, 1913, but also any increase in the value of property accrued prior to that date. The Treasury applied the provisions of the 1921 act retroactively by regulations to cover distributions made under the revenue acts of 1916, 1917, and 1918. This action by the Treasury is questionable although the Court of Claims has recently sustained the regulations of the department. (*Hoffman and Hoffman, Ex., v. U. S.*)

The 1924, 1926, and 1928 acts contained similar provisions to the 1921 act. The inequities resulting from this situation are due to the fact that the 1916, 1917, and 1921 acts do not require the stockholder to reduce the cost or other basis of his stock by the amount of the tax-free distribution for the purpose of determining gain or loss from the sale of the stock. This results in the stockholder having his capital returned twice. (See Gregg statement under 1924 bill, p. 2.) Both the 1924 and 1926 acts require the basis for the stock to be reduced by tax-free dividends. But these provisions are construed by the Treasury and the Board of Tax Appeals as being applicable only to such tax-free distributions as were made after the enactment of those acts. Moreover, in the revenue act of 1928, Congress provided, in section 111, that in the case of stock, the basis shall be diminished by the amount of distributions made in respect of such stock to the extent provided under the law applicable to the year in which the distribution was made. The effect of this last provision is to permit a double deduction in the case of tax-free distributions made prior to the revenue act of 1924 regardless of when the stock was sold.

The following hypothetical case will show the inequities of the present rule:

Suppose Mr. A. paid \$2,000,000 for a mine in 1912 and incorporated a company taking all the stock in exchange for his mine. Suppose a March 1, 1913, value of the mine of \$200,000,000 and the same March 1, 1913, value for all his stock. Suppose the depletion unit is 2 cents per pound and that beginning with 1914 the company mines 100,000,000 pounds of copper per year and makes an annual profit before depletion of \$2,000,000. The depletion will be \$2,000,000 per year and the corporation will pay no tax in any year. Dividends will be paid as follows:

	Total divi- dends	Taxable	Basis reduced in case of gain from sale		Total divi- dends	Taxable	Basis reduced in case of gain from sale
1914.....	\$2,000,000	\$2,000,000	0	1923.....	\$2,000,000	-----	0
1915.....	2,000,000	2,000,000	0	1924.....	2,000,000	-----	\$2,000,000
1916.....	2,000,000	-----	0	1925.....	2,000,000	-----	2,000,000
1917.....	2,000,000	-----	0	1926.....	2,000,000	-----	2,000,000
1918.....	2,000,000	-----	0	1927.....	2,000,000	-----	2,000,000
1919.....	2,000,000	-----	0	1928.....	2,000,000	-----	2,000,000
1920.....	2,000,000	-----	0				
1921.....	2,000,000	-----	0	Total....	30,000,000	\$4,000,000	10,000,000
1922.....	2,000,000	-----	0				

Now, if Mr. A sells this stock for \$190,000,000 on January 1, 1929, what is the net result?

(1) No tax from corporation on \$30,000,000 profits before depletion.

(2) Income taxes from Mr. A who has received \$30,000,000 from 1914 to 1928 on only \$4,000,000 at the low rates existing in 1914 and 1915.

(3) No capital gains tax from Mr. A when he sells property in 1929 for \$190,000,000 which cost him \$2,000,000 in 1912.

It appears consideration should be given to changing the revenue act of 1928 so that the basis in case of sale would be reduced in every case on account of tax-free dividends actually so allowed to the taxpayer for income tax purposes in prior years.

CASE NO. 13 (JUNE)—SINGER MANUFACTURING CO.

The refund in this case amounted to \$194,022.85. An objection was raised by the staff due to the absence of data in the file on the question of the exhaustion of depreciable assets. This data was subsequently supplied by the taxpayer and made a part of the file thus protecting the interests of the Government in future years.

CASE NO. 7 (SEPTEMBER)—C. PARDEE WORKS

This case is being reviewed by the department on certain issues raised by the staff in connection with the right to affiliation. The disposition of the case not being certain it is not subject to further discussion here.

CASE NO. 1 (OCTOBER)—ALUMINUM CO. OF AMERICA

This case was carefully reviewed on account of the complexity of the determination in such cases where a large affiliated group of corporations is involved. The overassessment amounted to \$246,-917.85.

No criticism could be offered to the case. The principle of elimination of intercompany profits provided for by the Packard Motor Car Co. case was followed to the detriment of the taxpayer. It has already been pointed out that this rule was not followed in the United States Steel case. However, the United States Steel case was settled before the decision in the Packard case, while the Aluminum Co. case was settled after this decision. The Aluminum Co. has since started suit in the District Court for the Western District of Pennsylvania contesting the Government's action on this point.

CASE No. 12 (NOVEMBER)—ESTATE OF PAYNE WHITNEY

This is a large estate tax case, but the overassessment is decidedly misleading as there never was any expectation of receiving the entire amount of the tax assessed. The overassessment amounted to \$16,966,258.61, but of this amount \$16,329,217.26 was abated. The report of the commissioner on this point states as follows:

Of the overassessment, \$16,329,217.26 results from the allowance of a credit under section 301 (b) of the revenue act of 1926 on account of estate, inheritance, legacy, and succession taxes paid to the States of Kentucky, South Carolina, Indiana, Maine, Washington, Pennsylvania, New Jersey, Ohio, California, and New York, in the amount of \$17,760,121.68. It is estimated that of this amount, \$8,583.74 was imposed on property transferred by the decedent prior to his death so that the amount applicable is \$17,751,537.94. At the time of filing the return, form 706, on behalf of the estate, the representatives were unable to furnish the evidence required by article 9 (a) of Regulations 70 which would entitle the estate to credit. The collector of internal revenue for the third district of New York, therefore, assessed the full amount of the tax shown by the executors on the return.

It will be interesting to set forth the final figures in this case so that the total burden of our death taxes may be seen in the case of a large estate. The allowable deductions are large on account of the sums left for charitable, religious, and educational purposes:

Gross estate.....	\$183, 691, 001. 50
Allowable deductions.....	69, 490, 613. 84
Net estate.....	114, 200, 387. 66
Total tax at Federal rates.....	22, 193, 577. 53
State death taxes paid.....	17, 751, 537. 94
Balance, Federal tax.....	4, 442, 039. 59

CASE No. 13 (NOVEMBER).—WOODWARD IRON CO. OF DELAWARE

This case was reported to the committee in 1929 but was withheld from payment on account of an objection raised by the staff of the committee in regard to an allowance for obsolescence. The case was subjected to a further field examination and a new determination was made, resulting in a smaller deduction for obsolescence. However, the bureau allowed the taxpayer to increase his rates of depreciation over what had been allowed when the case had been reported to the committee and this adjustment of course, offset to a large degree the saving which would have been made if the deduction objected to by the committee had been the only item to be changed. It appears that considering the years of overassessment and deficiency together there has been a saving of about \$25,000 in this case.

CONCLUSION

Taken as a whole, the refunds and credits have been open to little criticism, and, in our opinion, the Treasury Department and the Bureau of Internal Revenue are to be commended for their careful and fair determinations. It is true that the year 1930 has developed a few troublesome cases where difference of opinion has existed, but this is inevitable in disposing of the dregs of the claims filed for the excess profits tax years, and it is better to get action on these old cases

and finally dispose of them than to protract discussion indefinitely with consequent loss of interest.

The fact that the department has made changes in two cases during the year at the request of the staff is proof of the spirit of cooperation existing, for it would have been easy for the department to have offset such changes by others. Hon. Walter E. Hope, Assistant Secretary of the Treasury, Mr. B. H. Bartholow, special assistant to the Secretary of the Treasury, Hon. David Burnet, Commissioner of Internal Revenue, and Mr. C. M. Charest, general counsel, and their staffs have all extended full cooperation to the agents of this committee.

As far as the total amounts refunded are concerned, it is believed that such amounts will steadily decrease in the future, and that this prediction is justified by the facts already submitted for 1929 and by the facts now submitted for 1930.

The examination of the refunds and credits in behalf of the committee has been under the immediate supervision of Mr. G. D. Chesteen, assistant chief of staff. Parts I and II of this report containing the list of refunds and the analysis of same have been prepared by Mr. W. L. Tucker, auditor for the committee.

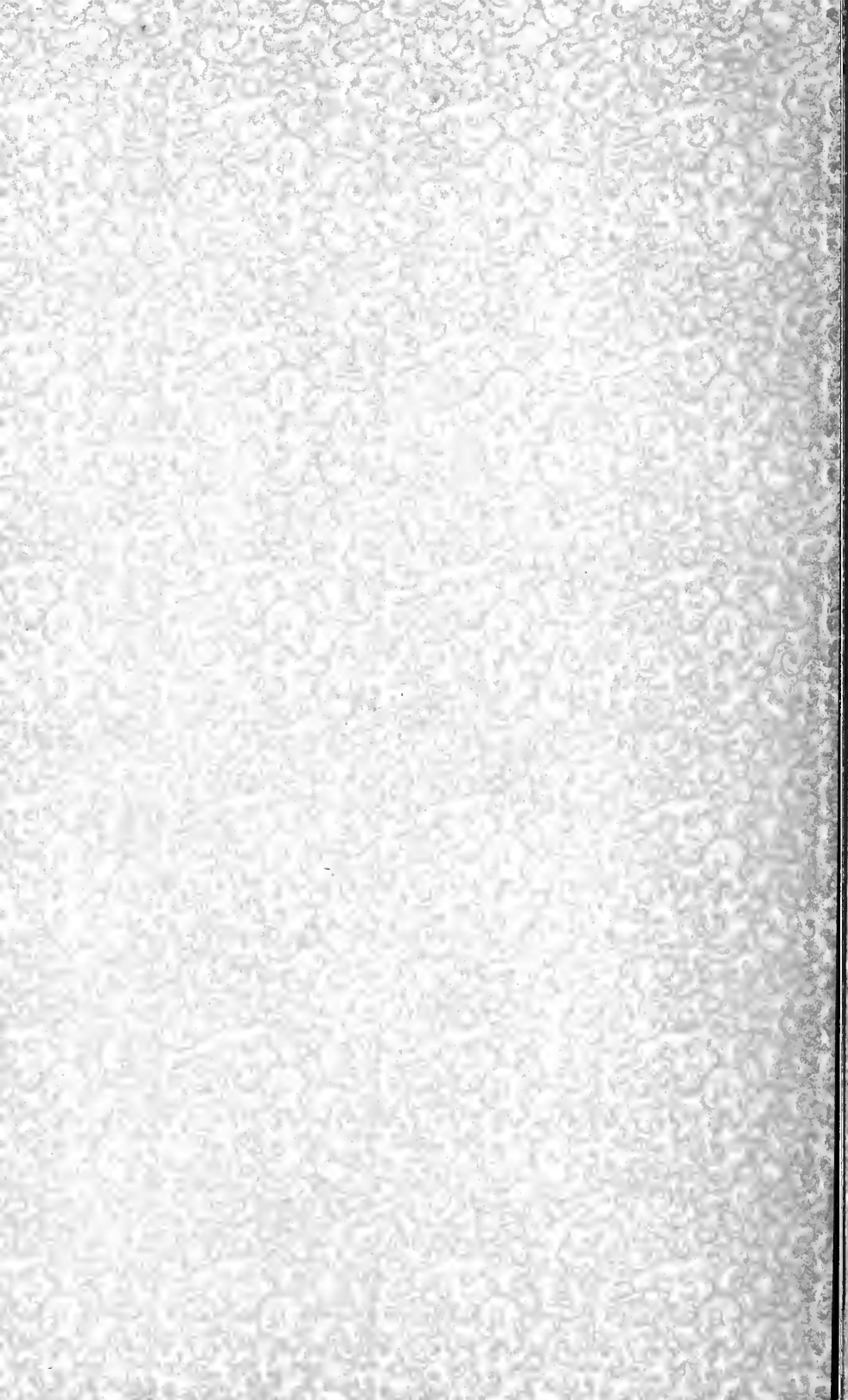
Respectfully submitted.

L. H. PARKER, *Chief of Staff*.

MARCH 3, 1931.







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